A 176

John Carter Brown.

Rich. No. 14.

1764

THE ADMINISTRATION OF THE COLONIES.

(THE FOURTH EDITION.)

WHEREIN THEIR

RIGHTS AND CONSTITUTION

Are diſcuſſed and ſtated,

By THOMAS POWNALL,

Late Governor and Commander in Chief of his his Majeſty's Provinces, Maſſachuſetts-Bay and South-Carolina, and Lieutenant-Governor of New-Jerſey.

Pulchrum eſt benefacere Reipublicæ, etiam benedicere haud abſurdum eſt. SALLUSTIUS.

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JOHN CARTER BROWN

TO THE RIGHT HONOURABLE

GEORGE GRENVILLE, Esq;

SIR,

WHEN I first published my opinions upon the administration of the Colonies, I addressed the book to you. You was then minister in this country, and had taken an active and leading part in the administration of those affairs. I did not by that address dedicate, as is the usual phrase, my opinions to the minister, for our opinions differed on several points: But as disputes upon a question, pregnant with the most dangerous consequences, began to be agitated between the minister of this country and the Colonists, which I saw must soon extend themselves in contentions

with parliament itſelf: As I ſaw a ſpirit of ſuſpicion and alarm ariſing, a temper of ill blood infuſing itſelf into the minds of men; I endeavoured to obviate theſe miſchiefs, by marking in that addreſs, that, as there were neither arbitrary intentions on one hand againſt the liberties of the Colonies, nor rebellious deſigns on the other againſt the juſt imperium of government; ſo there was a certain good temper and right ſpirit, which, if obſerved on all ſides, might bring theſe matters of diſpute to ſuch a ſettlement as political truth and liberty are beſt eſtabliſhed upon.

You had conceived, that government hath a right to avail itſelf in its finances, of the revenues of all its dominions, and that the impoſing taxes, by parliament, for the ſaid purpoſe, was the conſtitutional mode of doing this. The Coloniſts who were not repreſented in parliament by knights and burgeſſes of their own election, " did appre-
" hend, they had reaſon to fear ſome dan-
" ger of arbitrary rule over them, when
" the ſupreme power of the nation had

" thought

" thought proper to impoſe taxes on his " Majeſty's American ſubjects, with the " ſole and expreſs purpoſe of raiſing a re- " venue, and without their conſent."

Parliament had, by a ſolemn act, declared that it hath a right to make laws, which ſhall be binding upon the people of the Colonies, ſubjects of Great Britain, in *all caſes whatſoever*,—while the Coloniſts ſay, in *all caſes which can conſiſt with the fundamental rules of the conſtitution*; by which limitation, they except the caſe of taxation, where there is not repreſentation. Hence the Coloniſts have, by many, been deemed factious, undutiful and diſloyal, and even chargeable with treaſon itſelf.——

I had been ſufficiently converſant in theſe affairs, although neither employed nor conſulted in them, ſince I left America, to know that theſe alternate charges were falſe and groundleſs; that there were neither arbitrary intentions on one hand, nor ſeditious views on the other. As therefore, by my addreſs, I meant to do juſtice to your principles, which I knew to be thoſe of

peace and government eſtabliſhed on political liberty,—ſo I took that occaſion, as I will ever eſteem it a duty to do, to bear my teſtimony to the affection which the Coloniſts ever bore to the mother country, to their zeal for its welfare, to their ſenſe of government and their loyalty to their ſovereign, as alſo how much they have merited from this country, and how much they deſerve to be conſidered by it, in order to put theſe matters of diſpute on a footing of reconciliation, fair diſcuſſion and equitable ſettlement.——

It is great pity that queſtions of this nature were ever raiſed, * " for, it is a very " unſafe thing in ſettled governments, to " argue the reaſon of the fundamental con- " ſtitutions."—But when contrary propoſitions are alternately brought forward by the repreſentatives of two people, as the avowed principles of their reſpective conſtituents; when an inferior government, which invariably acknowledges its dependence on a ſupe-

* Comm. Journal 1672.

rior

rior and ſupream government, thinks it hath a right to call into queſtion ſome particular exertions of power in that government, by rules which limit the extent of that power, it is abſolutely neceſſary to decide ſuch queſtion, or to give ſuch explanations of the matter, that it may ceaſe to be a queſtion ;— for ſo long as it continues in doubt, the parties will alternately charge each other with arbitrary principles, and a ſpirit of ſedition, with tyranny and rebellion ;——and frequent injurious acts of violence, which numberleſs events will ever give occaſion to, muſt neceſſarily be animated with a ſpirit too nearly allied to the one and to the other. —The matter is in that ſtate that it ought to come before parliament, it muſt, it will,— it is neceſſary to the ſupport of government that it ſhould ;—it is neceſſary to the ſecurity of the nation and its intereſt ;—it is neceſſary to the peace, liberties, and conſtitution of the Colonies ; it is neceſſary to the ſafety of miniſters.

Many matters therefore, the publication of which I had ſuſpended, while I thought

that

that this queſtion might be waved, or ſome way compromiſed, I now publiſh in this edition. I continue my addreſs, Sir, to you, now you are no longer miniſter, nor perhaps ever likely to be. I addreſs myſelf to the private country gentleman, who will alway have a great ſhare in the buſineſs of his country;—to Mr. George Grenville, as to one who hath, and alway will have great intereſt, lead and authority in parliament, from an opinion really and deeply grounded in the minds of the moſt ſerious of his countrymen, that, while for the ſake of the peace and liberties of the whole, he means to ſupport the conſtitutional powers of government in the crown; ſo is he equally, by principle, determined, as by abilities able, to guard the civil rights of the ſubjects with a peculiar regard to, and management of, their intereſts in their property.

This American queſtion, in which liberty and the rights of property are ſo deeply engaged, muſt now come forward. From the part which you have already taken, you muſt ſtill bear a conſiderable part in the debates

bates and conſultations which will be held upon it. I therefore addreſs, to your moſt ſerious conſideration, that ſtate of this buſineſs which the following book contains; nor will I deſpair of your aſſent to what ſo firmly eſtabliſhes the rights of property, on the foundations of liberty, by an equal extenſion and communication of government, to whereſoever the people and dominions, having theſe rights, do extend. In the matters which I propoſe, I ſpeak my own ſentiments, not yours. I addreſs them to your ſerious conſideration, as I do to every man of buſineſs in the nation, with an hope that from conviction of the juſtice, policy and neceſſity of the meaſure, they may become the general ſentiments of the government, and of the people of Great Britain. From the ſame ſentiments, and with the ſame view of general peace and liberty, I could wiſh to recommend the ſame propoſitions to the Americans. Nor would I deſpair of their aſſent to things, were there no jealouſies of, no prejudices againſt men. I am convinced that theſe maxims are true in theory, and do ſincerely believe, that they are the only prin-

principles, by which the peace, the civil liberty, and commercial proſperity of the Britiſh dominions can be maintained and ſupported. I am no Partizan. I do not palliate the errors of Great Britain. I do not flatter the paſſions of America. My zeal and many ſervices towards the one, have appeared in the effect of thoſe ſervices; and my affection to the other, if it be not already known, will be ſeen, as, under the accident of a certain event, I mean to end my days there in a private character.

I have, in this preſent edition, gone into the diſcuſſion of this matter, *as it lies in fact*, and as it hath, at the firſt ſettlement of the Colonies, and in the different periods of their progreſs, *exiſted in right*, eſtabliſhed on ſuch fact. I have ſtated the fact, and the right, in hopes to point out what is the true and conſtitutional relation between Great Britain and the American Colonies, what is the preciſe ground on which this dangerous queſtion ought to be ſettled: How far they are to be governed by the vigour of external principles, by the ſupreme ſuperintending power of the mother country: How far,

by

by the vigour of the internal principles of their own peculiar body politic: And what ought to be the mode of adminiſtration, by which they are to be governed in their legiſlative, executive, judicial and commercial departments, in the conduct of their money and revenues in their power of making peace or war.—

Analyſing by the experience of fact, this inquiry,——I mark the falſe policy which derives by neceſſary conſequence from ſtating the Colonies, as ſubject only to the King in his ſeignoral capacity.——I ſhow alſo that no precedents can be drawn from that period, when the two houſes of parliament aſſumed the exerciſe of the ſovereignty, and conſidered the Colonies *as their ſubjects*. —I ſhow how the Colonies ought to be conſidered as parts of the realm, and by ſhowing the perplexities in reaſoning, and the dangerous conſequences in practice, which attend the ſtating of the Colonies as without, and no part of the realm, at the ſame time that they are ſtated as ſubjects of the King, Lords and Commons collectively taken as ſovereign. I mark the falſe ground and ſuperſtructure of that poſition.

In

In the courſe of this reaſoning, while I ſtate the rights of the Coloniſts, as thoſe of Engliſhmen, to all intents and purpoſes; while I ſtate *how* the Colonies have been adminiſtered, as diſtinct, free communities, and *how* they ought ſtill to be adminiſtered, if they are not united to the realm.——I ſhow that the Colonies, although without the limits of the realm, are yet in fact, of the realm; are *annexed*, if not yet *united* parts of the realm; are preciſely in the predicament of the counties Palatine of Durham and Cheſter; and therefore ought, in the ſame manner, to be *united* to the realm, in a full and abſolute communication and communion of all rights, franchiſes and liberties, which any other part of the realm hath, or doth enjoy, or ought to have and to enjoy: in communication of the ſame burthens, offices, and emoluments, in communion of the ſame foedoral and commercial rights, in the ſame exerciſe of judicial and executive powers,—in the ſame participation of council.—And that therefore, in the courſe and procedure of our government with the Colonies, there muſt ariſe a

duty

duty in government to give, a right in the Colonies to claim, a ſhare in the legiſlature of Great-Britain, by having Knights and Burgeſſes of their own election, repreſenting them in parliament.

It makes no difference in the matter of the truth, whether the government of England ſhould be averſe to the extending of this privilege to the Colonies, or whether the Colonies ſhould be averſe to the receiving of it:—Whether we, from pride and jealouſy, or they, from fears and doubts, ſhould be repugnant to this union. For, whether we reaſon from *experience* and the authority of *example*: Or whether we conſider the policy, juſtice, and neceſſity of the meaſure, the concluſion is unavoidably the ſame; the propoſition invariably *true*. That *the Britiſh iſles, with our poſſeſſions in the Atlantic and in America, are in* FACT, UNITED INTO A ONE GRAND MARINE DOMINION: *And ought therefore, by policy, to be united into a one Imperium, in a one center, where the ſeat of government is.* And ought to be governed from thence, by an

an adminiſtration founded on the baſis of the whole, and adequate and efficient to the whole.

I have not ſtated the neceſſity of this meaſure, for reaſons which cannot but be obvious to any prudent man; but I have ventured to affirm, that ſuch is the actual ſtate of the ſyſtem of the Britiſh dominions, that neither the power of government, over theſe various parts, can long continue under the preſent mode of adminiſtration; nor the great intereſt of commerce, extended throughout the whole, long ſubſiſt under the preſent ſyſtem of the laws of trade.

As I do, from my beſt judgment, ſincerely believe, that a general and intire union of the Britiſh dominions, is the only meaſure by which Great Britain can be continued in its political liberty, and commercial proſperity, perhaps in its exiſtence: So I make no ſcruple to averr, that if this meaſure be not adopted in *policy*, as it really exiſts in *fact*, it will ſoon become the duty of the ſeveral diſunited parts, to look narrowly

rowly to, and ſtand firm in, the maintenance of their undoubted rights in that ſtate and relation, in which the adminiſtration of government ſhall hold them. As I have pointed out the mode, how government may purſue its duty, conſiſtent with the fundamentals of the conſtitution; ſo have I ſuggeſted, through every ſtep, how the American may fortify himſelf in theſe rights, conſiſtent with his alliance.

When I had firſt an opportunity of converſing with, and knowing the ſentiments of, the * commiſſioners of the ſeveral provinces in North America, convened at Albany; of learning from their experience and judgment, the actual ſtate of the American buſineſs and intereſt; of hearing amongſt them, the grounds and reaſons of that *American union* which they then had under deliberation, and tranſmitted the plan of to England: I then firſt conceived the idea, and ſaw the neceſſity of a general

* Appointed by their reſpective provinces, to attend a congreſs at Albany, in 1754, to which they were called by the crown.

Britiſh union. I then firſt mentioned my ſentiments on this ſubject to ſeveral of thoſe commiſſioners,—and at that time, firſt propoſed my conſiderations on a general plan of union,——I had the ſatisfaction to find many of the meaſures, which I did then propoſe, adopted; and the much greater ſatisfaction of ſeeing the good effect of them: But this particular meaſure was at that time, I dare ſay, conſidered as theory and viſion, and perhaps may, at this time, be thought ſo ſtill: but every event that hath ſince ariſen, every meaſure which hath ſince been taken, through every period of buſineſs in which I have been concerned, or of which I have been cogniſant, hath confirmed me in my idea of the ſtate of things, and of the truth of the meaſure: At this period, every man of buſineſs in Britain, as well as in America, ſees the effect of this ſtate of things, and may, in future, ſee the neceſſity of this meaſure. The whole train of events, the whole courſe of buſineſs, muſt perpetually bring forward into practice, and neceſſarily in the end, into eſtabliſhment—*either an American or a Britiſh union.*—There is no other alternative,

the

the only conſideration which remains to every good man, who loves the peace and liberties of mankind, is whether the one or the other ſhall be forced into exiſtence, by the violence of parties, and at the hazard of events; or whether by the deliberate legiſlative advice of the repreſentative of all who are concerned.——

May both the Briton and the American take this conſideration to heart: and, whatever be the fate of parties and factions, of patriots or miniſters, may the true government of laws prevail, and the rights of men be eſtabliſhed in political liberty.

With the higheſt eſteem and regard, I have the honour to be,

Sir,

Your moſt obedient humble ſervant,

T. POWNALL.

ADVERTISEMENT.

THAT I may obviate thoſe prejudices by which many people might be led to think, that the doctrines and reaſonings contained in the following book are novel, and theories of imagination: That I may at leaſt crave a ſuſpenſion of thoſe opinions, from whence many people pronounce, that the application made by the Colonies, to deprecate the levying of taxes, when impoſed by parliament, is unconſtitutional and unprecedented: I have here inſerted, as publiſhed by Daniel King in 1656, the record of a like application from the county palatine of Cheſter in the like caſe. With the King's anſwer, and ordinance made out in form. Wherein not only ſimilar reaſonings are exhibited, but a precedent alſo is holden forth. By which, government, on one

hand, may ſee, that this county Palatine was exempted from taxes laien by parliament, while the ſaid county had not Knights and Burgeſſes of their own election, to repreſent them in parliament: and wherein the Colonies may ſee on the other hand, by purſuing the precedents relative to this county, that when it was thought proper and adviſeable to ſubject it to taxes impoſed by parliament, the privilege of ſending Knights and Burgeſſes to parliament was the proper and conſtitutional remedy ſought and obtained.

Copy

Copy of a Supplication, exhibited to King Henry VI. by the inhabitants of the County Palatine of Chefter.

To the KING, our Sovereign Lord.
Anno D. 1450.

MOST Chriſtian Benigne, and Gracious King; We your humble ſubjects, and true obaiſant liege people, the Abbots, Priors, and all the clergy; your Barons, Knights, and Eſquires; and all the Commonalty of your County Palatine of Chefter, meekly prayen and beſeechen your Highneſs: Where the ſaid county is, and hath been a county palatine, as well before the conqueſt of England, as continually ſince, diſtinct and ſeparate from the crown of England: within which county, you, and

all your noble progenitors ſithen it came into your hands, and all rulers of the ſame, before that time, have had your high courts of parliment to hold at your wills, your chancery, your exchequer, your juſtice to hold pleas, as well of the crown, as of common pleas. And by authority of which parliament, to make or to admit laws within the ſame, ſuch as be thought expedient and behovefull for the weal of you, of the inheritors, and inheritance of the ſaid county. And no inheritors or poſſeſſioners within the ſaid county, be not chargeable, lyable, nor have not been bounden, charged nor hurt, of their bodies, liberties, franchiſes, land, goods, nor poſſeſſions, within the ſame county, [** but by ſuch laws as they*] have agreed unto. And for the more proof and plain evidence of the ſaid franchiſes, immunities,

* The above is a literal tranſcript of the Record as publiſhed by Daniel King. I have not the means of conſulting the original, there is certainly ſome omiſſion or default in the copy. I have inſerted the words, *but by ſuch laws as they*, printed between hooks. I ſee no other way of making ſenſe of it. I have alſo in the ſame manner between hooks inſerted the words *be wrong*.

and

and freedoms; The moſt victorious King William the conqueror your moſt noble progenitor, gave the ſame county to Hugh Loup his nephew, to hold as freely to him and to his heirs *by the ſword*; as the ſame King ſhould hold all England *by the crown*. Experience of which grant, to be ſo in all appeals and records, out of the ſame; where, at your common-law it is written, contra coronam et dignitatem veſtram: It is written in your time, and your noble progenitors, ſinth the ſaid Earldome came into your hands, and in all Earls times afore. Contra dignitatem gladii ceſtriæ. And alſo they have no Knights, Citizens, ne Burgeſſes ne ever had, of the ſaid county, to any parliament holden *out of the ſaid* county; whereby they might, in any way of reaſon be bounden, And alſo ye and your noble progenitors, and all Earles, whoſe eſtate ye have in the ſaid Earledome; as Earles of Cheſter, ſith the conqueſt of England have had within the ſame; regalem, poteſtatum, jura regalia, prærogativa regia. Which franchiſes notwithſtanding, there be your commiſſions directed out to ſeveral commiſſioners of the ſame county, for the levy of ſubſidy, granted by

the commons of your land, in your parliament, late begun at Weſtminſter, and ended at Leiceſter, to make levy thereof within the ſaid county, after the form of their grant thereof, contrary to the liberties, freedoms, and franchiſes, of the ſaid county, and inheritance of the ſame, at all times, before this time uſed, that pleaſe your noble grace, of your bleſſed favour, the premiſes graciouſly to conſider: and alſo, how that we your beſeechers, have been as ready of our true hearts, with our goods, at times of need, as other parts of your lands; and alſo ready to obey your laws and ordinances, made, ordained, and admitted within the ſaid county, and if any thing amongſt us [*be wrong*,] ready to be reformed by your Highneſs, by the advice of your councel, within the ſaid county; and hereupon to diſcharge all ſuch commiſſioners of levy of the ſaid ſubſidy within the ſaid county, and of your ſpecial meer grace, ever, to ſee that there be never act in this parliment, nor in any parliment hereafter, holden out of the ſaid county, made to the hurt of any of the inheritors, or inheritance of the ſaid county,

of their bodies, liberties, franchiſes, goods, lands, tenements, or poſſeſſions, being within the ſaid county. For if any ſuch act ſhould be made, it were clean contrary to the liberties, freedoms, immunities, and franchiſes of the ſaid county. And as to the reſigning of ſuch poſſeſſions, as it hath liked your Highneſs, to grant unto any of your ſubjects: all ſuch as have ought of grant within the ſaid county, will be ready to ſurrender their letters pattents, which they have of your grant, for the more honourable keeping of your eſtate; as any other perſon or perſons within any other part of your land; or elſe they ſhall be avoided by us, under your authority committed unto us, within your ſaid county. And furthermore, conſidering that your beſeechers are, and ever have been true, dreading, obaiſant, and loving unto you, and of you, as unto you; and of our moſt dowted Sovereign Lord, our Earle and natural Lord: We the ſaid Barons, Knights, Eſquires, and Commons, are ready to live and die with you, againſt all earthly creatures; and by your licence, to ſhew unto your Highneſs, for the gracious expedition of this our moſt behoveful

peti-

petition. And we the ſaid Abbots, Priors, and clergy, continually to pray to God for your moſt hounerable eſtate, proſperity, and felicity, which we all beſeek God to continue, with as long life to reign, as ever did prince upon people; with iſſue coming of your moſt gracious body, perpetually to raign upon us for all our moſt ſingular joy and comfort.

The Kings will is, to the ſubſidy in this bill contained: Foraſmuch as he is learned, that the beſeechers in the ſame, their predeceſſors, nor anceſtors, have not been charged afore this time, by authority of any parliament holden out of the ſaide county, of any quindiſme, or ſubſidy, granted unto him or any of his progenitors, in any ſuch parliament; That the beſeechers, and each of them be diſcharged of the paying and levy of the ſaid ſubſidy. And furthermore, the King willeth, that the ſaid beſeechers, their ſucceſſors and heirs, have and enjoy all their liberties, freedoms, and franchiſes, as freely and entirely as ever they, their predeceſſors or anceſtors in his time, or in time of his progenitors, had and enjoyed it.—

Pro-

Profecuta fuit iſta Billa ad Dominum Regem per Johannem Manwaring Militem, Radulphum Egerton, Robertum Foulſhurſt, Robertum Leigh de Adlington, et Johannem Needham Anno. R. R. H. 6. poſt conqueſtum Anglie viceſſimo nono.

By the King.

TRUSTY and wellbeloved in God, and truſty and well beloved we greet you well. And forasmuch as we have underſtanding, by a ſupplication preſented unto us, on the behalf of all our liege people within our county palatine of Cheſter: How their

their predeceſſors nor anceſtors, have not been charged before this time, with any fifteenth or ſubſidy granted unto us, or any of our progenitors, by authority of any parliament, holden out of our ſaid county, for which cauſe, we have charged our chamberlain of our ſaid county, to make our writs, directed to all our commiſſioners, ordained for the aſſeſſing and levy of the ſubſidy laſt granted unto us: Charging them to ſurceaſe of any execution of our letters of commiſſion, made unto them, in that parties. Wherefore, according to our commandment late given by us, unto our ſaid Chamberlain: We will that ye in our behalf, open and declare unto all our ſaid liege-people: How it is our full will and intent, that they be not charged with any ſuch grant, otherwiſe than they, their predeceſſors and anceſtors have been charged afore time. And that they have and hold, poſſide, and enjoy, all their liberties, freedoms, and franchiſes, in as ample and large form, as ever they had in our, or any of our ſaid progenitors days. And that ye

fail

fail not thereof, as we truſt you, and as you deem to pleaſe us.

Given under our ſignet of the Eagle, at our pallace of Weſtminſter the eighth day of March, Anno. R. R. H. 6. Viceſſimo Nono.

To our truſty and wellbeloved in God, the Abbot of our monaſtry of Cheſter; and to our truſty and wellbeloved Knights Sir Thomas Stanley, our Juſtices of Cheſter, Sir John Manwaring, and to every of them.

THE

ADMINISTRATION

OF THE

COLONIES.

THE ſeveral changes of territories, which at the laſt Peace took place in the Colonies of the European world, have given riſe to a new ſyſtem of intereſts, have opened a new channel of buſineſs, and brought into operation a new concatenation of powers, both commercial and political.—This ſyſtem of things ought, at this criſis, to be actuated by a ſyſtem of politics, adequate and proportionate to its powers and operations: But while we find not any one comprehenſive or preciſe idea of the criſis now ariſing, we ſee that all which is propoſed as meaſures, is by parts, without connection to any whole, by temporary ex-

pedients, and ſhiftings off of preſent dangers, without any reference to that eventual ſtate of things, which muſt be the conſequence of ſuch meaſures, and ſuch expedients; much leſs by reference to that eventual ſtate of things, by which the true ſyſtem ought to be framed, and actuated.

This ſtate of the buſineſs has tempted me to hazard my ſentiments on the ſubject. My particular ſituation in time paſt gave me early opportunity of ſeeing and obſerving the ſtate of things, which have been long leading to this criſis. I have ſeen and mark'd, where it was my duty, this naſcent criſis at the beginning of the late war, and may affirm, have foreſeen and foretold the events that now form it. My preſent ſituation by which I ſtand unconnected with the politics of miniſtry, or of the colonies, opens the faireſt occaſion to me of giving to the public, whom it concerns, ſuch an impartial uninfluenced opinion of what I think to be the right of things, as I am convinced the following ſheets contain. I know what effect this conduct will have, what it has had, on this work and on myſelf. I may be thought neither by the miniſtry nor the Coloniſts to underſtand this ſubject, the one may call this work the viſion of a theoriſt, the other will repreſent the doctrine which it contains, as

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the prejudices of power and ambition. The one may think me an advocate for the politicks of the colonies, the other will imagine me to be an evil counſellor againſt the colonies to the miniſtry: But as I know that my aim is, without any prudential view of pleaſing others, or of my own intereſt, to point out and to endeavour to eſtabliſh an idea of the true intereſt of the colonies, and of the mother country as related to the colonies, I ſhall equally diſregard what varies from this on the one hand, and equally reject what deviates from it on the other.

In the firſt uncultur'd ages of Europe, when men ſought nothing but to poſſeſs, and to ſecure poſſeſſion, the power of the *ſword* was the predominant ſpirit of the world; it was that, which formed the Roman empire; and it was the ſame, which, in the declenſion of that empire, divided again the nations into the ſeveral governments formed upon the ruins of it.

When men afterward, from leiſure, began to exerciſe the powers of their minds in (what is called) learning; religion, the only learning at that time, led them to a concern for their ſpiritual intereſts, and conſequently led them under their ſpiritual guides. The power of *religion* would hence as naturally

predominate and rule, and did actually become the ruling ſpirit of the policy of Europe. It was this ſpirit, which, for many ages formed, and gave away kingdoms; this which created the anointed Lords over them, or again excommunicated and execrated theſe ſovereigns; this that united and allied the various nations, or plung'd them into war and bloodſhed; this, that formed the ballance of the power of the whole, and actuated the ſecond grand ſcene of Europe's hiſtory.

But ſince the people of Europe have formed their communication with the commerce of Aſia; have been, for ſome ages paſt, ſettling on all ſides of the Atlantic Ocean, and in America, have been poſſeſſing every ſeat and channel of commerce, and have planted and raiſed that to an intereſt which has taken root;---ſince they now feel the powers which derive from this, and are extending it to, and combining it with others; the ſpirit of *commerce* will become that predominant power, which will form the general policy, and rule the powers of Europe: and hence a grand commercial intereſt, the baſis of a great commercial dominion, under the preſent ſcite and circumſtances of the world, will be formed and ariſe. The riſe and forming of this commercial intereſt is what preciſely conſtitutes the preſent criſis.

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The European poſſeſſions and intereſts in the Atlantic and in America lye under various forms, in plantations of ſugar, tobacco, rice, and indigo, in farms of tillage and paſture, in fiſheries, Indian hunts, foreſts, naval ſtores, and mines; each different ſcite produces ſome ſpecial matter of ſupply neceſſary to one part of that food and raiment become requiſite to the preſent ſtate of the world; but is, as to it's own local power of produce, totally deſtitute of ſome other equally neceſſary branch of ſupply. The various nature of the lands and ſeas lying in every degree and aſpect of climate, and the ſpecial produce and vegetation that is peculiar to each, forms this local limited capacity of produce. At the ſame time that nature has thus confined and limited the produce of each individual ſcite to one, or at moſt to few branches of ſupply, at the ſame time hath ſhe extended the neceſſities of each to many branches beyond what its own produce can ſupply. The Weſt India iſlands produce ſugar, meloſſes, cotton, &c. they want the materials for building and mechanics, and many the neceſſaries of food and raiment: The lumber, hides, the fiſh, flour, proviſions, live-ſtock, and horſes, produced in the northern colonies on the continent, muſt ſupply the iſlands with theſe requiſites. On the other hand, the ſugar and meloſſes of the

ſugar iſlands is become a neceſſary intermediate branch of the North American trade and fiſheries. The produce of the Britiſh ſugar iſlands cannot ſupply both Great Britain and North America with the neceſſary quantity; this makes the melloſſes of the foreign ſugar iſlands alſo neceſſary to the preſent ſtate of the North American trade. Without Spaniſh ſilver, become neceſſary to the circulation of the Britiſh American trade, and even to their internal courſe of ſale and purchaſe, not only great part of that circulation muſt ceaſe to flow, but the means of purchaſing the manufactures of Great Britain would be equally circumſcribed: Without the Britiſh ſupplies, the Spaniſh ſettlements would be ſcarce able to carry on their culture, and would be in great diſtreſs. The ordinary courſe of the labour and generation of the negroes in the Weſt India iſlands makes a conſtant external ſupply of theſe ſubjects neceſſary, and this connects the trade of Africa with the Weſt Indies; the furr and Indian trade, and the European goods neceſſary to the Indian, are what form the Indian connection.---I do not enter into a particular detail of all the reciprocations of thoſe wants and ſupplies, nor into a proof of the neceſſary interconnections ariſing from thence; I only mark out the general *traites* of theſe, in order to explain what I mean when I ſay, that by the limitation

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of the capacities and extent of the neceſſities of each, all are interwoven into a neceſſary intercourſe of ſupplies, and all indiſſolubly bound in an union and communion of *one general compoſite intereſt* of the whole of the Spaniſh, French, Dutch, Daniſh, and Britiſh ſettlements. This is the *natural ſtate* of the European poſſeſſions in the Atlantic and in America; this general communion is that natural intereſt under which, and by which, they muſt ſubſiſt. On the contrary, the ſpirit of policy, by which the mother countries ſend out and on which they eſtabliſh colonies, being to confine the trade of their reſpective colonies ſolely to their own ſpecial intercourſe, and to hold them incommunicable of all other intercourſe or commerce, the *artificial or political ſtate* of theſe colonies becomes diſtinct from that which is above deſcribed as their natural ſtate.---The political ſtate is that which policy labours to eſtabliſh by a principle of repulſion; the natural one is that ſtate under which they actually exiſt and move by a general, common, and mutual principle of attraction. This one general intereſt thus diſtinct muſt have ſome one general tendency or direction diſtinct alſo, and peculiar to its own ſyſtem. There muſt be ſome center of theſe compoſite movements, ſome lead that will predominate and govern in this general intereſt---

That particular branch of buſineſs and its connections in this general commercial intereſt, which is moſt extenſive, neceſſary, and permanent, ſettles and commands the market; and thoſe merchants who actuate this branch muſt acquire an aſcendency, and will take the lead of this intereſt. This lead will predominate throughout the general intercourſe, will diſſolve the effect of all artificial connections which government would create, and form the natural connections under which theſe intereſts actually exiſt,—will ſuperſede all particular laws and cuſtoms, and operate by thoſe which the nature and actual circumſtances of the ſeveral intereſts require. This lead is the foundation of a commercial dominion, which, whether we attend to it or not, will be formed: whether this idea may be thought real or viſionary is of no conſequence as to the exiſtence and proceſſion of this power, for the intereſt, which is the baſis of it, is already formed;—yet it would become the wiſdom, and is the duty of thoſe who govern us, to profit of, to poſſeſs, and to take the lead of it already formed and ariſing faſt into dominion; it is our duty ſo to interweave thoſe naſcent powers into, and to combine their influence with, the ſame intereſts which actuate our own government; ſo to connect and combine the operations of our trade with this intereſt, as to partake of its

its influence and to build on its power. Although this intereſt may be, as above deſcribed, different and even diſtinct from the peculiar intereſts of the mother countries, yet it cannot become independent, it muſt, and will fall under the dominion of *ſome* of the potentates of Europe. The great queſtion at this criſis is, and the great ſtruggle will be, which of the ſtates of Europe ſhall be in thoſe circumſtances, and will have the vigour and wiſdom ſo to profit of thoſe circumſtances, as to take this intereſt under its dominion, and to unite it to its government. This lead ſeemed at the beginning of the late war to oſcillate between the Engliſh and French, and it was in this war that the dominion alſo hath been diſputed. The lead is now in our hands, we have ſuch connection in its influence, that, whenever it becomes the foundation of a dominion, that dominion muſt be ours.

It is therefore the duty of thoſe who govern us, to carry forward this ſtate of things to the weaving of this lead into our ſyſtem, that Great Britain may be no more conſidered *as the kingdom of this Iſle only, with many appendages of provinces, colonies, ſettlements, and other extraneous parts,* but as A GRAND MARINE DOMINION CONSISTING OF OUR POSSESSIONS IN THE ATLANTIC AND

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IN AMERICA UNITED INTO A ONE EMPIRE, IN A ONE CENTER, WHERE THE SEAT OF GOVERNMENT IS.

As the riſing of this criſis above deſcribed, forms preciſely the *object* on which government ſhould be employed; ſo the taking leading meaſures towards the forming all thoſe Atlantic and American poſſeſſions into one Empire of which Great Britain ſhould be the commercial and political center, is the *preciſe duty* of government at this criſis.

The great miniſter, whoſe good fortune ſhall have placed him at this criſis, in the adminiſtration of theſe great and important intereſts—will certainly adopt the ſyſtem which thus lies in nature, and which by natural means alone, if not perverted, muſt lead to a general dominion, founded in the general intereſt and proſperity of the commercial world, muſt build up this country to an extent of power, to a degree of glory and proſperity, beyond the example of any age that has yet paſſed;—* *id eſt viri et ducis non deeſſe fortunæ præbenti ſe, et oblata caſu flectere ad concilium.*

The forming ſome general ſyſtem of adminiſtration, ſome plan which ſhould be

* Liv. l. 28. § 44.

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(whatever may be the changes of the miniſtry at home, or in the governors and officers employed abroad) uniformly and permanently purſued by meaſures founded on the actual ſtate of things as they ariſe, leading to this great end, *is, at this criſis, the preciſe duty of government.* This is an object which ought not to be overlooked or miſtaken. It ought not to be a ſtate myſtery, nor can be a ſecret. If the Spaniſh, French, and Dutch governments can oppoſe it, they will; but if it be founded in nature, ſuch oppoſition will only haſten its completion, becauſe any meaſures of policy which they can take to obſtruct it, muſt either deſtroy the trade of their own colonies, or break off their connection. If they attempt to do this by force, they muſt firſt form an alliance, and ſettle the union of their mutual intereſts, and the eventual partition of the effect of it; but this will prove a matter of more difficulty, than can eaſily be compaſſed, and under the diſadvantages created thereby, there will be much hazard of the utmoſt effort of their united forces.

To enable the Britiſh nation to profit of theſe preſent circumſtances, or of the future events, as they ſhall ſucceſſively ariſe in the natural proceſſion of effects, it is neceſſary, that the adminiſtration form itſelf into ſuch eſtabliſhments

eſtabliſhments for the direction of theſe intereſts and powers, as may keep them in their natural channel, as may maintain their due connections with the government, and lead them to the utmoſt effect they are capable of producing towards this grand point.

The firſt ſpring of this direction, the baſis of this government, is the adminiſtration at home. If that department of adminiſtration, which ſhould have the direction of theſe matters, be not wiſely and firmly bottomed, be not ſo built, as to be a *practical*— be not ſo really ſupported by the powers of government, as to be an *efficient adminiſtration*, all meaſures for the adminiſtration of theſe intereſts, all plans for the government of theſe powers are vain and ſelf-deluſive; even thoſe meaſures that would regulate the movements and unite the intereſts under a practical and efficient adminiſtration, become miſchievous meddling impertinencies where that is not, and muſt either ruin the intereſts of theſe powers, or render a breach of duty neceſſary to the colonies that they may avoid that ruin.

That part of government, which ſhould adminiſter this great and important branch of buſineſs, ought, in the firſt place, to be the center of all information and application from

from all the intereſts and powers which form it; and ought from this center, to be able, fully, uniformly, and efficiently, to diſtribute its directions and orders. Wherever the wiſdom of ſtate ſhall determine that this center of information ſhall be fixed; from whatever department all appointments, orders, and executive adminiſtration ſhall iſſue, it ought ſomewhere to be fixed, known, of record, and undivided; that it may not be partial, it ought to extend to all times, and all caſes. All application, all communication, all information ſhould center immediately and ſolely in this department: this ſhould be the ſpring of all nominations, inſtructions, and orders.——It is of little conſequence where this power of adminiſtration is placed, ſo that the department be ſuch, as hath the means of the knowledge of its buſineſs—is ſpecially appropriated to the attention neceſſary to it—and officially ſo formed as to be in a capacity of executing it. Whether this be a Secretary of State, or the Board of Trade and Plantations, is of no conſequence; but it ought to be entirely in either the one or the other. Where the power for the direction is lodged, there ought all the knowledge of the department to center; therefore all officers, civil or military, all ſervants of the government, and all other bodies or private perſons ought to correſpond immediately

ly with this department, whether it be the Secretary of State or the Board of Trade. While the military correſpond with the Secretary of State, the civil in one part of their office with the Secretary of State, in another with the Board of Trade; while the navy correſpond in matters not merely naval with the Admiralty, while the engineers correſpond with the Board of Ordnance, officers of the revenue with the ſeveral boards of that branch, and have no communication with the department which has, or ought to have, the general direction and adminiſtration of this great Atlantic and American, this great commercial intereſt, who is to collect? who does, or ever did collect, into a one view, all theſe matters of information and knowledge? What department ever had, or could have, ſuch general direction of it, as to diſcuſs, compare, rectify and regulate it to an official real uſe? In the firſt place, there never was yet any one department form'd for this purpoſe; and in the next, if there was, let any one acquainted with buſineſs dare to ſay, how any attempt of ſuch department would operate on the jealouſies of the others. Whenever, therefore, it is thought proper (as moſt certainly it will, ſome time or other, tho' perhaps too late) to form ſuch department, it muſt (if I may ſo expreſs myſelf) be

be ſovereign and ſupreme, as to every thing relating to it; or to ſpeak plainly out, *muſt be a ſecretary of ſtate's office in itſelf.* When ſuch is form'd, although the military, naval, ordnance, and revenue officers, ſhould correſpond, in the matters of their reſpective duties, with the departments of government to which they are more immediately ſubordinate and reſponſible, yet, in general matters of information, or points which are matters of government, and the department of this ſtate office, they ſhould be inſtructed to correſpond and communicate with this miniſter. Suppoſe that ſome ſuch miniſter or office now exiſted, is it not of conſequence that he ſhould be acquainted with the Geography of our new acquiſitions? If, therefore, there have been any actual ſurveys made of them, ſhould not ſuch, or copies of ſuch, be ſent to this miniſter or office? If a due and official information of any particular conduct in our colonies, as to their trade, might lead to proper regulations therein, or might point out the neceſſity of a reviſion of the old laws, or the making further proviſion by new ones, would it not be proper that the cuſtom-houſe officers ſettled there ſhould be directed to correſpond and communicate with this miniſter, or office, on theſe points? Would it interfere with their due ſubordination, as officers of

the revenue, to the commiſſioners of the cuſtoms?—If there were any events ariſing, or any circumſtances exiſting, that might affect the ſtate of war or peace, wherein the immediate application of military operations were not neceſſary or proper, ſhould not the military and naval officers be directed to communicate on theſe matters with this miniſter, or office? Should not, I ſay, all theſe matters of information come officially before this miniſter, if any ſuch ſtate miniſter, or office, was eſtabliſhed?

As of information and knowledge centering in a one office, ſo alſo of power of executing, it ſhould ſpring from one undivided department. Where the power of nominating and diſmiſſing, together with other powers, is ſeparated from the power of directing, the firſt muſt be a mere privilege or perquiſite of office, uſeleſs as to the king's buſineſs or the intereſt of his colonies, and the latter muſt be inefficient. That office, which neither has the means of information, nor can have leiſure to attend to the official knowledge produced thereby, nor will be at the trouble to give any official directions, as to the ordinary courſe of the adminiſtration of the American matters, muſt certainly be always, as it is, embarraſſed with the power of nomination, and fetter'd with the

chain of applications, which that power drags after it. On the other hand, what effect will any inſtructions, orders or directions, have from that board, which has not intereſt to make or diſmiſs one of the meaneſt of its own officers: this, which is at preſent the only official channel, will be deſpiſed; the governors, nay, every the meaneſt of the officers in the plantations, looking up ſolely to the *giving power*, will ſcarce correſpond with the *directing*—nay, may perhaps contrive to make their court to the one, by paſſing by the other. And in any caſe of improper conduct of theſe officers, of any neglect of duty, or even of miſdemeanour; what can this directing power do, but complain to the miniſter who nominates, againſt the officers appointed by him? If there be no jealouſies, no interfering of intereſts, no competitions of interfering friends, to divide and oppoſe theſe two offices to each other: if the miniſter is not influenced to continue, upon the ſame motives upon which he firſt appointed; if he does not ſee theſe complaints in a light of oppoſition to his nomination and intereſt; ſome redreſs may, after a due hearing between the party and the office, be had;—the authority of the board may be ſupported, and a ſort of remedy applied to the ſpecial buſineſs, but a remedy worſe than the diſeaſe—a remedy that

diſhonours that board, and holds it forth to the contempt of thoſe whom it ought to govern.

It is not only from the natural impracticability of conducting this adminiſtration under a divided State of power and direction, that the neceſſity of forming a ſome one ſtate office, or miniſter of ſtate, for the executing it ariſes: but the very nature of the buſineſs of this department, makes the officer who is to adminiſter it a ſtate officer, a miniſter for that department, and who ought to have immediate acceſs to the cloſet. I muſt here repeat, that I am no partizan of the Secretary of State's office, or for the Board of Trade: I have ceaſed to have any connection of buſineſs with either, and have not the leaſt degree of communication with the one or the other. Without reference, therefore, to either, but with all deference to both, I aim to point out, that the department of the adminiſtration of Trade and plantations, be it lodged where it may, ſhould be a State office, and have a miniſter of ſtate. That office, or officer, in a commercial nation like this, who has the cognizance and direction (ſo far as government can interfere) of the general trade of the kingdom—whoſe duty it is to be the depoſitory and reporter of the ſtate and condition of it; of every thing which

which may advance or obſtruct it, of the ſtate of manufactures, of the fiſheries, of the employment of the poor, of the promoting the labour and riches of the country, by ſtudying and adviſing every advantage, that can be made of every event which ariſes in commercial politics, every remedy, which can remove any defect or obſtruction;—who is officially to prepare every proviſion or reviſion neceſſary in the laws of trade, for the conſideration of parliament; and to be the conductor of ſuch thro' the neceſſary meaſures—is certainly an officer of ſtate, if the Secretary of State, ſo call'd, is. That office, or officer, who has cognizance and direction of the plantations in every point of government, in every matter judicial or commercial; who is to direct the ſettlements of colonies, and to ſuperintend thoſe already ſettled; who is to watch the plantations in all theſe points, ſo far as they ſtand related to the government, laws, courts and trade of the mother country——is certainly an officer of ſtate, if the Secretary of State, ſo called, is. That office or officer, who is to report to his Majeſty in council on all theſe points; whoſe official *fiat*, or negative, will be his Majeſty's information in council, as to the legiſlature in the colonies—is certainly an officer of ſtate. That office, or officer, who is to hear and determine on all matters

of complaint, and mal-adminiſtration, of the crown officers and others, in the plantations; and can examine witneſſes on oath ---is ſurely an officer of ſtate. That office, or officer, who is to correſpond with all the ſervants of the crown on theſe points, and to be the iſſuer of his Majeſty's orders and inſtructions to his ſervants, on theſe many, great, and important points of ſtate—is certainly his Majeſty's ſecretary, and certainly a ſecretary of ſtate.

But if it be conſidered further, who the perſons are, that are of this very great and extenſive commiſſion of the Board of Trade and Plantations; namely, all the great officers of ſtate for the time being, with the biſhop of London, the ſecretaries of ſtate for the time being, and thoſe more eſpecially called the commiſſioners of trade, it will be ſeen, that it is no longer a doubt or a queſtion, as to its being an office of ſtate: it is actually ſo; and has, as an office, as a board, immediate acceſs to his Majeſty in council, even to the reporting and recommending of officers. This was the plan whereon it was originally founded, at its firſt inſtitution, by Lord Sommers.

That great ſtateſman and patriot ſaw that all the powers of government, and ſeveral departments

departments of adminiſtration diſunited, were interfering with, and obſtructing each other on this ſubject, and not they only here in England, but that the reſpective officers of theſe ſeveral departments carried all this diſtraction into the detail of their buſineſs in the colonies, which I am afraid is too much the caſe even at this day: he ſaw that this adminiſtration could not be conducted but by an intire union of all the powers of government, and on that idea formed the board of trade and plantations, where, and where alone, theſe powers were *united in a one office*. In which office, and in which alone, all the buſineſs of the colonies ought therefore to be adminiſtred; for if ſuch union be neceſſary, here alone is that *official union*. Unhappily for the true intereſt of government, partly from an intire neglect of this adminiſtration in time paſt, and partly from the defective partial exerciſe of it, ſince ſome idea of theſe matters began again to revive, this great and wiſe plan hath been long diſuſed; but it is fortunate for the public in this important criſis, that ſuch is the temper of particulars, ſuch the zeal of all for his Majeſty's ſervice, ſuch the union of his ſervants, that the ſpirit of ſervice predominates over theſe natural defects: ſo that all who wiſh well to the intereſt of this country, in its trade and colonies, may hope to ſee

that union, at preſent only miniſterial, become *official* in this buſineſs, and revive again that great, wiſe and conſtitutional plan of office, actuated under the real ſpirit of it.

The only queſtion at preſent is, who ſhall be the executive officer of this department of ſtate; whether the ſecretary of ſtate, properly ſo called; or the firſt lord, and other commiſſioners, properly called *the board of trade*; or whether it ſhall remain divided, as it is, between the ſeveral great departments of adminiſtration; *or whether ſome more official and practical diviſion of this adminiſtration may not be made.*

Suppoſe now, it ſhould be thought proper, that this adminiſtration be placed in the ſecretary of ſtate's office, all the adminiſtration of the plantations may be given to the ſouthern department: yet the great object of the general trade of Great Britain muſt be divided between the ſouthern and the northern, as the matters of conſideration happen to lie in the one or in the other department; and how will the ſouthern department act, when any matter of commerce ariſes in the plantations, that has ſpecial connections or interferings with the Dutch, Hamborough, Daniſh or Ruſſian trade?

It

It cannot lie in the board of trade, properly ſo called, until it be found proper, and becomes a meaſure of government to erect that board into a ſecretary of ſtate's office for this department, which, firſt or laſt, it moſt certainly will do. That, therefore, the great buſineſs of trade and plantations may not run into confuſion, or be at a ſtand;—that it may be carried to the effect propoſed, held forth, and deſired by government, and neceſſary to it; all that can be done at preſent is, to put the whole executive adminiſtration, the nomination, correſpondence, iſſuing of inſtructions, orders, *&c.* under the ſecretary of ſtate, if he has leiſure to attend to it, and can undertake it; and to make the board of trade a mere committee of reference and report; inſtead of reporting to the king in council, to report to the ſecretary of ſtate, who ſhall lay the matters before his Majeſty, and receive and iſſue his orders;—who ſhall refer all matters to this committee, for their conſideration, and ſhall conduct through the legiſlature all meaſures neceſſary to be determined thereby. If this be not practicable, there is no other alternative, than to do directly what ought to be done, and what, ſome time or other, muſt be done; the making the officer who conducts this department a miniſter for that department, with all the powers neceſſary thereto. For

until a practical and efficient adminiſtration be formed, whatever the people of this country may think, the people of the colonies, who know their buſineſs much better than we do, will never believe government is in earneſt about them, or their intereſt, or even about governing them; and will, not merely from that reaſoning, but from neceſſity of their circumſtances, act accordingly.

Until an effective adminiſtration for Colony affairs be eſtabliſhed by government, all plans for the governing of thoſe countries under any regular ſyſtem of policy, will be only matter of ſpeculation, and become mere uſeleſs opprobrious theory. All official information given and tranſmitted by thoſe whoſe duty it is to give it, will, as accident ſhall decide, or as the connexions of parties ſhall run, be received or not; nay, it may ſo happen, that thoſe officers who ſhould duly report to government the ſtate of theſe matters, will, as they find themſelves conſcientiouſly or politically diſpoſed, direct that information to thoſe who are in, or to thoſe who are out of adminiſtration. Every leader of every little flying ſquadron will have his runner, his own proper channel of information; and will hold forth his own importance in public, by bringing *his*

plan

plan for American affairs before it. All true and regular knowledge of theſe affairs being diſperſed, will be evaporated; every adminiſtration, even Parliament itſelf, will be diſtracted in its councils by a thouſand odds and ends of propoſals, by a thouſand pieces and parcels of plans, while thoſe ſurely, who are ſo deeply concerned as the Americans themſelves are, will not be excluded from having their plan alſo; they will have their plan alſo, for however peaceably they may ſubmit to the direction of the powers of government, derived through a regular eſtabliſhed permanent mode of adminiſtration, they will by any means that they can juſtify, refuſe to have their intereſts directed and diſpoſed of by every whim that every temporary empiric can force into execution. If therefore we mean to govern the Colonies, we muſt previouſly form at home ſome practical and efficient adminiſtration for Colony affairs.

Before the erection of the Board of Trade as a particular office, the buſineſs of the Colonies was adminiſtered with efficiency; the king himſelf in council adminiſtered the government of his Colonies; the ſtate officer, each in his proper department was no otherwiſe Miniſter than as miniſterially executing the orders which he received, or officially

officially reporting from his reſpective department, the information which he had to lay before the king in council. Since the eſtabliſhment of that office called the Board of Trade, the adminiſtration of the Colonies has either laid dormant, or been overlaid; or, if taken up, become an occaſion of jealouſy and ſtruggle for power between that Board and every ſtate officer who hath been deemed the Miniſter for the time being. From this jealouſy and this ſtruggle, this Board hath been ſuppoſed to interfere at different times with every other office, while at one time it hath had the powers and held the port of a miniſter's office, and at another hath become a mere committee, inefficient as to execution, unattended to as reporting. The Colonies, and the officers of the Colonies, have one while been taught to look up to this Board as the Miniſter for their affairs, and at another, have learned to hold it in that contempt which inefficiency gives; which contempt, however, hath not always ſtopped there.

To prevent, on this critical occaſion, all ſuch appearances on one hand, from miſleading thoſe who are to be governed, and to put an end on the other, to all interfering amongſt thoſe who are to govern in this line of buſineſs---The Board of Trade ſhould either

either be made what it never was intended to be, a Secretary of State's office for the Plantations, or be confined to what it really is, a committee of reference for examination and report, for ſtating and preparing buſineſs, while the affairs of the Colonies are adminiſtred ſolely by the King in council, really acting as an efficient board for that purpoſe. Somewhere there ought to be an efficiency, and in this ſupreme board is the proper reſidence of it. To place it here would be really and in fact the eſtabliſhing of an adminiſtration for colony affairs.

The firſt ſtep that ſuch adminiſtration would take to fix the baſis of an eſtabliſhed, permanent and effective ſyſtem of government for the mother country and the Colonies, muſt be made by ſome *leading meaſure*, which ſhall, on real fact, and by actual repreſentation of the parties concerned, examine into the various intereſts which have ariſen, the various claims which are derived from thoſe intereſts, and the various rights that may, or may not, be admitted, as founded on theſe, and as conſiſtent with the general government and intereſt of the whole.

To obtain this with truth and certainty, and to engage the coloniſts to co-operate in this view with that confidence which a free people

people muſt have, if they co-operate at all--- government would ſend out to America, *ſome very conſiderable perſon*, under commiſſion and inſtructions, to hear and examine on the ſpot, the ſtate of things there, and by ſuch proper repreſentations and aſſiſtance as can no where be had but upon the ſpot, and from the people themſelves, to form ſuch authentic matter of information for the king in council, as may become the ſolid baſis of real government, eſtabliſhed by the principles of real liberty.

To ſuch conſiderable perſon, and to ſuch commiſſion, only, would the coloniſts give their confidence; they would know that *there* there was no ſpirit of party or faction, that there could be no jobb---They would be convinced that government was in earneſt, and meant to act fairly and honourably with them. They would meet ſuch perſon in the abundance of their loyalty, with diſpoſitions of real buſineſs in their temper, and with the ſpirit of real union in their hearts.

What commiſſion could be more honourable and glorious, even to the higheſt character, than that of acting for the rights and liberties of a whole people, ſo as to be the means of eſtabliſhing thoſe rights and liberties

liberties, by an adequate ſyſtem of freedom and government, extended to the whole? What can be more ſuited to the moſt elevated character, than to be the *great reconciler* between the mother country and her colonies, miſ-repreſented to, and miſ-informed of each other?

I am almoſt certain that this meaſure will not be adopted, that it will be, as it has been already, rejected---that there never will be any ſyſtematical union of government between the mother country and the colonies---that the opportunity when ſuch might be eſtabliſhed on true principles will be neglected---and that the courſe of buſineſs will, on this occaſion, be, as the hiſtory of mankind informs us it always has been, that thoſe errors which might be rectified by the ſpirit of policy, will be permitted to go on piling up one miſchief over another, until nothing but power can interpoſe, which will then interpoſe when the ſpirit of policy is no more.

The mother country and her colonies will continue to live on in perpetual jealouſies, jarrings and diſputes. The colonies will for ſome time *belong to ſome faction here*, and be the tool of it, until they become powerful enough to hold a party for themſelves, and make

make *ſome faction their tool.* The latter ſtage of this miſerable connection will be one continued ſtruggle, whether Great Britain ſhall adminiſter the rights and intereſts of the colonies, or whether the intereſt and power of the colonies ſhall take a lead in that adminiſtration which ſhall govern Great Britain. This convulſion may agitate for a while, until ſome event ſhall happen that will totally break all union between us, and will end in the ruin of the one or the other, juſt as the accident of the die ſhall turn.

Although I am convinced that this will be the ſtate of things, yet, as I know that what I have here recommended, is founded on precedents of better and wiſer times than the preſent, is not founded barely on my own experience, but in that of men who have long had the lead of buſineſs in thoſe countries, is what every true friend of the colonies, who lives and has his property there, would recommend---what every man of buſineſs here, who wiſhes well to the government of Great Britain, muſt approve. I now propoſe it to the public as a meaſure, of which if adminiſtration ſhould neglect or refuſe to take the lead, the colonies may profit by thoſe means of communication with one another, and by thoſe powers which their conſtitutions and eſtabliſhments give them

them for the preſervation of their civil and commercial intereſts; yet, taking it up, as a meaſure, which, for the ſake of Great Britain, I wiſh adminiſtration to adopt, I ſay, government ſhould ſend out ſome conſiderable perſon, with a council to aſſiſt him, under a commiſſion and inſtructions, to call a congreſs of commiſſioners from the ſeveral colonies.---He ſhould have power and be inſtructed to call to his aid and aſſiſtance, the governors, or any other his Majeſty's ſervants, as occaſion ſhould require.

By the repreſentations and aſſiſtance of this congreſs and theſe perſons, he ſhould inquire into the *actual* ſtate of the crown's authority, as capable of being executed by the King, and by his governor, and other the immediate executors of the power of the crown.

He ſhould inquire into the extent of the exerciſe and claim of the legiſlative powers, and examine diſpaſſionately and without prejudice, on what grounds of neceſſity or expediency any precedents which ſtretch beyond perhaps the ſtrict line of the commiſſions or charters, are founded.

He ſhould inquire into the ſtate of their laws, as to their conformity to the laws of Great Britain, and examine the real ſtate of

the facts or buſineſs which may have made any deviation neceſſary or not.

He ſhould examine into the powers and practice of their courts of judicature, whether, on one hand, they have not extended their authority beyond their due powers; or whether, on the other hand, they have not been reſtrained by inſtructions, or by the acts of the colony legiſlatures, within bounds too narrowly circumſcribed to anſwer the ends for which ſuch courts are erected.

He ſhould, which can only be known upon the ſpot, inquire into and examine the actual ſtate of their commerce, that where it deviates unneceſſarily from the laws of trade, it may be reſtrained by proper regulations---or where the laws of trade are found to be inconſiſtent with the intereſt of a commercial country having colonies which have ariſen from, and depend upon trade, a reviſion may be made of thoſe laws, ſo as that the ſyſtem of our laws may be made conform to the ſyſtem of our commerce, and not deſtructive of it.

Under all theſe various heads, he may hear all the grievances which the officers of the crown, or the people, complain of, in order

order to form a juſt and actual repreſentation for the King in council.

He ſhould inquire into the ſtate of the King's revenues, his lands, his naval ſtores; and he ſhould review the ſtate of the military ſervice, the forts, garriſons and forces.--- With the aſſiſtance of proper commiſſioners from the provinces and colonies concerned, he ſhould ſettle the ſeveral diſputes of the colonies amongſt themſelves, particularly as to their boundary lines. He ſhould alſo inquire into all fraudulent grants.

All theſe matters duly examined and inquired into, a report of the whole buſineſs, ſhould be drawn up, and being authenticated by the original documents, ſhould be laid before the King in council: Thoſe points which were of the ſpecial department of any of the boards or offices under government, would be refered from thence to thoſe reſpective offices, for them to report their opinion upon the matter. ---And when the whole, both of matter and of opinion, was by the moſt authentic repreſentations, and by the beſt advice, thus drawn together, the King in council would be enabled to form, and by and with the advice and authority of Parliament to eſtabliſh, the only ſyſtem of government and

commercial laws, which would form Great Britain and her colonies into a one united commercial dominion.

If this meaſure be adopted, a general bill of rights, and an act for the eſtabliſhment of government and commerce on a great plan of union, will be brought forward; the colonies will be conſidered as ſo many corporations, not without, but united to, the realm; they will be left in all the free and full poſſeſſion of their ſeveral rights and liberties, as by grant, charter, or commiſſions given; yet, for every power which they exerciſe or poſſeſs, they will depend upon the government of the whole, and upon Great Britain as the center. Great Britain, as the center of this ſyſtem, of which the colonies by actual union ſhall become organized, not annexed parts, muſt be the center of attraction to which theſe colonies, in the adminiſtration of every power of their government, in the exerciſe of their judicial powers, in the execution of their laws, and in every operation of their trade, muſt tend. They will remain under the conſtant influence of the attraction of this center; and cannot move, but that every direction of ſuch movement will converge to the ſame. And as it is not more neceſſary to preſerve the ſeveral governments ſubordinate

ſubordinate in their reſpective orbs, than it is eſſential to the preſervation of the whole empire to keep them diſconnected and independent of each other, *they muſt be guarded by this union againſt having or forming any principle of coherence with each other, above that whereby they cohere to this center, this firſt mover.* They ſhould alway remain incapable of any coherence, or of ſo conſpiring amongſt themſelves, as to create any other equal force which might recoil back on this firſt mover. Policy acting upon a ſyſtem of civil union, may eaſily and conſtitutionally provide againſt all this. The colonies and provinces, as they ſtand at preſent, are under the beſt form as to this point, which they can be under. They are under the beſt frame and diſpoſition for the government of the general and ſupreme power (duly applied) to take place, having at preſent no other principle of civil union between each other, than that by which they naturally are, and in policy ſhould be, in communion with Great Britain, as the common center of all. The different manner in which they are ſettled; the different modes under which they live; the different forms of charters, grants, and frames of government they poſſeſs; the various principles of repulſion that theſe create; the different intereſts which they actuate; the

different religious intereſts by which they are actuated; the rivalſhip and jealouſies which ariſe from hence; and the impracticability of reconciling and accommodating theſe incompatable ideas and claims, will keep them for ever ſo, ſo long as the ſpirit of civil policy remains, and is exerted to the forming and maintaining of this ſyſtem of union.

However viſionary this may ſeem to thoſe who judge by parts, and act by temporary expedients, thoſe truly great miniſters who ſhall ever take up the adminiſtration of the colonies as a ſyſtem, and ſhall have a general practical and adequate knowledge of that ſyſtem, as interwoven in that of the mother country, will, on the contrary, find this meaſure prudential if not a neceſſary one, as leading to that great and abſolutely neceſſary meaſure of uniting the Colonies to Great Britain as parts of the realm, in every degree and mode of communication of its rights and powers. And until ſome ſteps are taken which may lead and approach to this ſyſtem of union, as the intereſt and power of the Colonies approach to the bearing of a proportion with that of Great Britain, the real intereſt of Great Britain and her Colonies will continue to be very inadequately and very unhappily adminiſtred, while the buſineſs of the Colonies ſhall

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in the mean time become a faction inſtead of a conſtitutional part of the adminiſtration.

The center of power, inſtead of remaining fixed as it now is in Great Britain, will, as the magnitude of the power and intereſt of the Colonies increaſes, be drawn out from the iſland, by the ſame laws of nature analogous in all caſes, by which the center of gravity in the ſolar ſyſtem, now near the ſurface of the ſun, would, by an encreaſe of the quantity of matter in the planets, be drawn out beyond that ſurface. Knowing therefore the laws of nature, ſhall we like true philoſophers follow, where that ſyſtem leads, to form one general ſyſtem of dominion by an union of Great Britain and her Colonies, fixing, while it may be ſo fixed, the common center in Great Britain, or ſhall we without ever ſeeing that ſuch center muſt be formed by an inter-communion of the powers of all the territories as parts of the dominions of Great Britain, like true modern politicians, and from our own narrow temporary ideas of a local center, labour to keep that center in Great Britain by force againſt encreaſing powers, which will, finally, by an overbalance heave that center itſelf out of its place? Such meaſures would be almoſt as wiſe as his who ſtanding in a ſcale ſhould thruſt his ſtick up againſt the beam

to prevent it from deſcending, while his own weight brought it the faſter down. That policy which ſhall ever attempt to connect the Colonies to Great Britain *by power*, will in that very inſtant connect them *to one another in policy*.

Before we enter into theſe matters, I do not think it would be impertinent juſt to mark the idea of colonies, and their ſpecial circumſtances, which makes it a meaſure in commercial governments, to eſtabliſh, cultivate, and maintain them.

The view of trade in general, as well as of manufactures in particular, terminates in ſecuring an extenſive and permanent vent; or to ſpeak more preciſely, (in the ſame manner as ſhop-keeping does) in having many and good cuſtomers: the wiſdom, therefore, of a trading nation, is to gain, and to create, as many as poſſible. Thoſe whom we gain in foreign trade, we poſſeſs under reſtrictions and difficulties, and may loſe in the rivalſhip of commerce: thoſe that a trading nation can create within itſelf, it deals with under its own regulations, and makes its own, and cannot loſe. In the eſtabliſhing colonies, a nation creates people whoſe labour, being applied to new objects of produce and manufacture, opens new

new channels of commerce, by which they not only live in eaſe and affluence within themſelves, but, while they are labouring under and for the mother country, (for there all their external profits center) become an increaſing nation, of appropriated and good cuſtomers to the mother country. Theſe not only increaſe our manufactures, increaſe our exports, but extend our commerce; and if duly adminiſtered, extend the nation, its powers, and its dominions, to wherever theſe people extend their ſettlements. This is, therefore, an intereſt which is, and ought to be dear to the mother country: this is an object that deſerves the beſt care and attention of government: and the people, who through various hardſhips, diſaſters and diſappointments; through various difficulties and almoſt ruinous expences, have wrought up this intereſt to ſuch an important object, merit every protection, grace, encouragement, and privilege, that are in the power of the mother country to grant.---It is on this *valuable conſideration*, (as Mr. Dummer, in his ſpirited defence of the colonies, ſays) that they have a right to the grants, charters, privileges and protection which they receive; and alſo on the other hand, it is from theſe grants, charters, privileges and protection given to them, that the mother country has an excluſive

right to the external profits of their labour, and to their cuſtom. As it is the right, ſo it becomes the duty of the mother country to cultivate, to protect and govern the colonies: which nurture and government ſhould preciſely direct its care to two eſſential points. 1ſt, That all the profits of the produce and manufactures of theſe colonies center finally in the mother country: and 2dly, That the colonies continue to be the ſole and proper cuſtomers of the mother country.---To theſe two points, collateral with the intereſts, rights and welfare of the colonies, every meaſure of adminiſtration, every law of trade ſhould tend: I ſay collateral, becauſe, rightly underſtood, theſe two points are mutually coincident with the intereſts, rights and welfare of the colonies.

It has been often ſuggeſted, that care ſhould be taken in the adminiſtration of the plantations; leſt, in ſome future time, theſe colonies ſhould become independent of the mother country. But perhaps it may be proper on this occaſion, nay, it is juſtice to ſay it, that if, by becoming independent, is meant a revolt, nothing is further from their nature, their intereſt, their thoughts. If a defection from the alliance of the mother country be ſuggeſted, it ought to be, and can be truly ſaid, that their ſpirit

rit abhors the ſenſe of ſuch; their attachment to the proteſtant ſucceſſion in the houſe of Hanover will ever ſtand unſhaken; and nothing can eradicate from their hearts their natural, almoſt mechanical, affection to Great Britain, which they conceive under no other ſenſe, nor call by any other name, than that of *home*. Beſides, the merchants are, and muſt ever be, in great meaſure allied with thoſe of Great Britain; their very ſupport conſiſts in this alliance, and nothing but falſe policy *here* can break it. If the trade of the colonies be protected and directed from hence, with the true ſpirit of the act of navigation, that ſpirit under which it has riſen, no circumſtances of trade could tempt the Coloniſts to certain ruin under any other connections. The liberty and religion of the Britiſh colonies are incompatible with either French or Spaniſh government; and they know full well, that they could hope for neither liberty nor protection under a Dutch one. Any ſuch ſuggeſtion, therefore, is a falſe and unjuſt aſperſion on their principles and affections, and can ariſe from nothing but an intire ignorance of their circumſtances. Yet again, on the other hand, while they remain under the ſupport and protection of the government of the mother country; while they profit of the beneficial part of its trade; while their attachment to

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the preſent royal family ſtands firm, and their alliance with the mother country is inviolate, it may be worth while to inquire, whether they may not become and act in ſome caſes independent of the *government and laws* of the mother country:—and if any ſuch ſymptoms ſhould be found, either in their government, courts, or trade, perhaps it may be thought high time, even now, to inquire how far theſe colonies are or are not arrived, at this time, in theſe caſes, at an independency of the government of the mother country:—and if any meaſure of ſuch independency, formed upon precedents unknown to the government of the mother country at the time they were formed, ſhould be inſiſted on, when the government of the mother country was found to be ſo weak or diſtracted at home, or ſo deeply engaged abroad in Europe, as not to be able to attend to, and aſſert its right in America, with its own people,—perhaps it may be thought, that no time ſhould be loſt to remedy or redreſs theſe deviations—if any ſuch be found; or to remove all jealouſies ariſing from the idea of them, if none ſuch really exiſt.

But the true and effectual way to remove all jealouſies and interfering between the ſeveral powers of the government of the mother

ther country, and the ſeveral powers of the governments of the colonies, in the due and conſtitutional order of their ſubordination, is to inquire and examine what the colonies and provinces really are; what their conſtitution of government is; what the relation between them and the mother country; and in conſequence of the truth and principles eſtabliſhed on ſuch examination—to maintain firmly, both in claim and exerciſe, the rights and power of the ſupreme government of the mother country, with all acknowledgement of the rights, liberties, privileges, immunities and franchiſes of the Coloniſts, both perſonal and political, treating them really as what they are.—Until this be done, there can be no government properly ſo called; the various opinions, connections and intereſts of Britains, both in this iſland, and in America, will divide them into parties—the ſpirit of mutual animoſity and oppoſition, will take advantage of the total want of eſtabliſhed and fixed principles on this ſubject, to work theſe parties into faction; and then the predominancy of the one faction, or the other, acting under the maſk of the forms of government, will alternately be called government.

In the former editions of this book, I had marked out what points of colony govern-

ment

ment had fallen, in the courſe of adminiſtration, into diſpute; what the different apprehenſions were, which had given riſe to the different meaſures purſued on thoſe points—I had ſtated the nature of each queſtion—what was the true iſſue to which the diſpute ought to be brought; and at the ſame time that I ſtated the effect of theſe diſputes in matters of adminiſtration, I ſhewed how neceſſary it was that they ſhould be ſome way or other decided. I did not proceed to give any opinion or deciſion—I thought the firſt ſufficient, and thought it was all that was neceſſary. But yet as that was neceſſary, and as I ſaw an attention to American affairs ariſing in the minds of moſt men of buſineſs, I was in hopes that theſe points might have been diſpaſſionately conſidered, and prudently ſettled; that they might be fixed on ſuch legal and conſtitutional grounds: that that true ſyſtem of efficient government founded in political liberty (which all ſeemed to profeſs here) might be eſtabliſhed in the colonies: I was ſure, from the ſpirit and genius of the people, it would be nouriſhed and maintained there, ſo as to become in ſome future, and perhaps not very diſtant age, an aſylum to that liberty of mankind, which, as it hath been driven by the corruption and the conſequent tyranny of government, *hath been conſtantly retiring*

retiring weſtward—but from the moment that American affairs became an object of politics, they became the tools and inſtruments of faction. Such hath been their fate, that as on one hand they have given real occaſion to thoſe who mean well to the peace and liberty of mankind; ſo on the other have they ſupplied ſpecious pretences to thoſe who mean only to profit of the force of parties—to diſpute the ſtate and application of every caſe in politics relative to the colonies, by recurring back to the principles on which they appear to have been ſettled, eſtabliſhed, and afterwards governed; and theſe principles, from the variableneſs and fluctuation of the opinion and ſpirit of government, have been ſo often changed, that propoſitions the very reverſe of each other, may ſtrictly be deduced from the conduct of the crown and ſtate towards the colonies. Hence it is, that at this day the conſtitution and rights of the colonies, in the actual exerciſe of them, are unſettled; the relation in which they ſtand connected with the realm and with the King, are diſputed; and Parliament, as well as miniſters, are balancing in opinion what is the true, legal, and conſtitutional mode of adminiſtration by which thoſe colonies are to be governed. Whether the colonies be demeſnes of the crown, without the realm, or parts and parcels of the

realm;

realm; whether theſe foreign dominions of the King be as yet annexed to the realm of England; whether the coloniſts be ſubjects of the King in his foreign dominions, or whether they be ſubjects of, and owe allegiance to the realm; has been at various times, and is at this day called into diſpute. This queſtion is now no longer of curioſity and theory; it is brought actually into iſſue. It is now by deeds and overt acts diſcuſſed, and muſt be decided. To do this truly and juſtly, it muſt be thoroughly conſidered, what were the circumſtances of their migration; under what political conſtitutions they were eſtabliſhed and chartered; and by what mode of adminiſtration their affairs have been conducted and governed by the King, and by the government of England.

When the lands of America were firſt diſcovered, the ſovereign of that ſubject, in each particular caſe, who diſcovered them, either from a power given by the Pope, or from ſome ſelf-derived claim, aſſumed the right of poſſeſſion in them. If theſe lands were really derelict, preoccupancy might have created a right of poſſeſſion: yet even in this caſe, ſome further circumſtances of interconnection with that land, ſuch as the mixing labour with it, muſt attend that occupancy, or the right would have been very

defective. Where the lands were already occupied by the human ſpecies, and in the actual poſſeſſion of inhabitants, it will be very difficult to ſhow on what true principle or grounds of juſtice, the Pope, or any other chriſtian prince, aſſumed the right to ſeize on, diſpoſe, and grant away, the lands of the Indians in America. Surely, the divine author of our holy religion, who declared that his kingdom was *not of this world*, hath not bequeathed to chriſtians an *excluſive charter*, giving right of poſſeſſion in the lands of this world, even where the ſupreme Providence hath already planted inhabitants in the poſſeſſion of it: and yet, abſurd, unjuſt, and groundleſs as this claim is, it is the only claim we Europeans can make, the only right we can plead. However, the Engliſh title is as good as any other European title, and indiſputable againſt any other European claim.

Let us ſee the firſt aſſumption and exerciſe of this right in our government, contained in the grant which Henry the Seventh made to Cabot.——Copy of the grant, as it is a curious act, is printed in the appendix. —It contains a grant to Cabot, and his ſons, of power, to ſet up the King's ſtandard in any lands, iſlands, towns, villages, camps, &c. which he ſhall diſcover not in the occu-

pancy of any chriſtian power: and that this Cabot, his ſons, and their heirs, may ſeize, conquer, and occupy any ſuch lands, iſlands, towns, camps, or villages: and as his liege vaſſals, governors, locumtenentes, or deputies, may hold dominion over and have excluſive property in the ſame.

As the ſovereigns of Europe did thus on one hand aſſume, without right, a predominant claim of poſſeſſion, againſt the Indians in theſe lands; ſo our ſovereigns alſo thus at firſt aſſumed againſt law an excluſive property in theſe lands, to the preclusion of the juriſdiction of the ſtate. They called them their foreign dominions; their demeſne lands in partibus exteris, and held them as their own, the King's poſſeſſions, not parts or parcels of the realm, † "as not yet annexed "to the crown." So that when the Houſe of Commons, in thoſe reiterated attempts which they made by paſſing a bill to get a law enacted for eſtabliſhing a free right of fiſhery on the coaſts of Virginia, New-England, and Newfoundland, put in the claim of the ſtate to this property, and of the parliament to juriſdiction over it; they were told in the Houſe by the ſervants of the crown, † "That it was not fit to make

† Journal of the Houſe of Commons, April 25, 1621.

laws

" laws here for thoſe countries which are " not yet annexed to the crown." ‡ " That " this bill was not proper for this houſe, as " it concerneth America." Nay, it was doubted by others, " whether the houſe had " juriſdiction to meddle with theſe matters." And when the houſe, in 1624, was about to proceed upon a petition from the ſettlers of Virginia, to take cognizance of the affairs of the plantations, " upon § the Speaker's pro- " ducing and reading to the houſe a letter from " the king concerning the Virginia petition, " the petition, by general reſolution, was " withdrawn." And although the bill for a free fiſhery, to the diſannulling ſome clauſes in the King's charters, paſſed the houſe; as alſo the houſe came to ſome very ſtrong reſolutions upon the nullity of the clauſes in the charters; yet the houſe from this time took no further cognizance of the plantations till the commencement of the civil wars. Upon this ground it was the King conſidered the lands as his demeſnes, and the coloniſts as his ſubjects in theſe his foreign dominions, not his ſubjects of the realm or ſtate.

The plantations were ſettled on theſe lands by his licence and grant; the conſtitutions

‡ Ditto, April 29, 1621.
§ Ditto, April 29.

and powers of government were framed by the King's charters and commiſſions; and the coloniſts underſtanding themſelves as removed out of the realm, conſidered themſelves in their executive and legiſlative capacity of government, in immediate connection and ſubordination to the King, their only ſovereign lord.

In the ſame manner as this ſtate and circumſtances of a people migrating from, and ſettling in vacate countries, without, or out of the territories of the realm, operated to the eſtabliſhment of the King's ſovereignty there, he having aſſumed an excluſive right to the property. In the ſame manner it muſt and did neceſſarily operate to the eſtabliſhment of the people's liberty, both perſonal and political—they had either tacit or expreſs permiſſion to migrate from the realm, and to ſettle in places out of the realm: thoſe who ſettled under charters, had, in thoſe charters, licence, by an expreſs clauſe, to *quit* the realm, and to *ſettle* on lands *out of the realm*; as alſo acknowledgement that they and their poſterity were entitled to enjoy all the liberties, franchiſes, and immunities, of free denizons and natural ſubjects, to all intents and purpoſes, as if they had been abiding and born within the realm.

So

So long as they were conſidered as natural born Engliſh ſubjects *of the realm*, they muſt retain and poſſeſs in the full enjoyment and exerciſe thereof, all the ſame rights and liberties in their perſons, all the ſame franchiſes and privileges in their property, that any other Engliſh ſubject did poſſeſs.—If their freehold was part of any manor in any county of the realm, and that freehold was worth forty ſhillings by the year, ſuch freehold undoubtedly gave the poſſeſſor a vote for the repreſentative of ſuch county; and theſe rights muſt give this ſubject, this freeholder, claim to the ſame participation of council in the legiſlative part of government, to the ſame communication of power in the executive part, the ſame right to act and trade, as every other Engliſh freeholder had.

If by migrating from out the realm the coloniſts ceaſed to have participation, ſuch legiſlative participation in the councils as the Engliſh freeholder hath; if they ceaſed to have communication in the offices, burthens, and exerciſe of government; if being without the realm they ceaſed to be bound by laws made only for the internal regulation and government of the realm; if they ceaſed in future to be bound by laws wherein they were not expreſsly named; if they

ceaſed to be under the protection of thoſe laws which were made, and thoſe powers and magiſtracies which were created for the preſervation of the peace within the realm; if they were (no matter how) ſeparated from participation of the benefits of our holy religion, according to the eſtabliſhed church; and if the colonies at the ſame time were not parts or parcels of the realm, they undoubtedly ceaſed to be ſubjects of the realm. But being by law, both eſtabliſhed and natural, poſſeſſed of all the rights, privileges, franchiſes and immunities of a free-born people—no government leſs free than that which they had left, could, by any juſtifiable power, be eſtabliſhed over or amongſt them; and therefore the coloniſts were eſtabliſhed in a government conformable to the government of England. They had power of making laws and ordinances, and of laying impoſitions, by a general aſſembly, or repreſentative legiſlature—the power of erecting courts and creating magiſtrates, of the ſame power and operations, by the ſame modes and proceedings, *mutatis mutandis*, as were uſed in the government of England; nay, in ſome caſes, by a mode adapted to a democratic, and even elective, government. The adminiſtrative and executive part had all the ſame checks, and the legiſlative all the ſame powers and privileges, only reſtrained from

from not acting contrary to the laws of England. And upon the ſame ground thoſe colonies, of whoſe firſt ſettlement the crown took no care or cognizance, the colony of Plymouth, ‖ that of Maſſachuſetts, Providence Plantation, and the colony of Connecticut, eſtabliſhed among themſelves the like powers of free government.

And here we may venture to affirm, that if the colonies were to be deemed without the realm, not parts or parcels of it, not annexed to the crown of England, though the demeſnes of the King; if the coloniſts by theſe means ceaſed to be ſubjects of the realm, and the Parliament had no right or juriſdiction to make laws about them; if the government of them reſided in the King, only as *their* ſovereign, *dum Rex ei præſit, ut caput iſtius populi, non ut caput alterius populi*, they were certainly a people *ſui juris* ---*nam imperium quod in rege eſt ut in capite, in populo manet ut in toto, cujus pars eſt caput*, * and having an undoubted claim, by the nature of their liberties, to a participation in legiſlature, had an undoubted right, when

‖ Vide Mr. Prince's New-England Chronology; and Lt. Gov. Hutchinſon's Hiſt. of Maſſachuſetts.

* *Grotius de B. & P. lib.* 2. *c.* 9. § 8.

 formed

formed into a ſtate of government, to have a repreſentative legiſlature eſtabliſhed, as part of their government; and therefore when ſo formed, being a body politic in fact and name, they had within themſelves, the King, or his deputy, being part, full power and authority, to all intents and purpoſes, both legiſlative and executive, for the government of all the people, whether ſtrangers or inhabitants, within their juriſdiction, independent of all external direction or government, except what might conſtitutionally be exerciſed by their ſovereign lord the King, or his deputy, and except their ſubordination, not allegiance, to the government of the realm of England *(ut alterius populi)*. They acknowledged themſelves to be a government ſubordinate to the government of England, ſo that they might juſtly be reſtrained from doing or becoming any thing repugnant to the power, rights and intereſt of England---but held their allegiance as due only to their ſovereign; therefore, theſe premiſes admitted, as they did on one hand truly meaſure the duties of this allegiance, by the ſame rights and claims as the King's Engliſh ſubjects of the realm did; ſo on the other did they juſtly maintain that in every exerciſe of their own rights, privileges and powers,---they were free and independent of all controul, except what was

interwoven

interwoven into their conſtitution, ſo as to operate in the internal movements of theſe powers, or to be externally exerciſed by the legal powers and negative reſiding in the King their ſovereign, or in his deputy.

They certainly were not provinces in the ſimple idea of Roman provinces governed by laws and power, not deriving from their own rights, and ariſing within their own government, but impoſed on them by the *imperium alterius populi*, and adminiſtered under provincial officers commiſſioned from this *imperium*, abſolute as to them. Our colonies and provinces being each a body politic, and having a right to, and enjoying in fact, a certain legiſlature, indented rather with the caſe of the Grecian colonies, as ſtated by Grotius, — *Huc referenda & diſceſſio quæ ex conſenſu fit in colonias, nam ſic quoque novus populus ſui juris naſcitur.* ὲ γαρ ἰπὶ τῷ Δῦλοι, ἀλλ' ἰπὶ τῷ ὅμοιοι ἔιναι ἰκπέμπονῆαι. *Non enim ut ſervi ſint ſed ut pari jure ſint dimituntur.* *—Many inſtances may be collected from Thucydides, which would ſhew that the dependence of the colonies of Greece on their mother cities, was only the

* It ſhould be remarked here, though Grotius has omitted to do it, That this is a Poſition of the Locreans, a Colony of Corinth, obviating the Charge of Revolt. *Thucyd. Lib.* 1. *c.* 37.

connection of *Fœderates* acknowledging precedence, not the ſubordination of ſubjects acknowledging allegiance. But having, as above, ſtated the circumſtances of the migration and firſt ſettlement of the Engliſh coloniſts, I ſhall confine myſelf to the inſtances and facts of the Engliſh colonies.

They were bodies corporate, but certainly not corporations in the ſenſe of ſuch communities *within the realm*. They were erected into provinces, had the *jura regalia*, the patentee as the King's deputy, or the King's governor, as part of their conſtitution, whether by commiſſion or by charter, was veſted with all the ſame royal powers which the King hath in his palace, both executive and legiſlative.

Theſe provinces were all, in the true ſpirit, intent, and meaning of the thing, COUNTIES PALATINE; and ſome of them were actually and expreſsly created ſuch.

The Caribbee Iſlands, granted by Charles the firſt, in the third year of his reign, to the Earl of Carliſle, were erected into a province or county, by the name of The Province of Carliſle, "with all and every ſuch "like and ſo large privileges, juriſdictions, "prerogatives, royalties, liberties, freedoms,

"regal

" regal rights and franchiſes whatſoever, as " well by ſea as land, within the limits of " the ſaid iſlands, to have, uſe, exerciſe, " and enjoy, as any Biſhop (according to " the cuſtom of Dureſme) within the ſaid " biſhoprick or county palatine of Dureſme, " in our kingdom of England, ever before " hath, had, keepeth, uſeth, or enjoyeth, " or of right could or ought to have, keep, " uſe, or enjoy."

The grant in 1630, to Sir Robert Heath, and his heirs, of the lands now called Louiſiana, ran in the ſame manner.——" We " erect the ſame into a province, and in- " corporate it by the name of Carolanea, " or the province Carolanea, with all and " ſingular ſuch like, and as ample rights, " juriſdictions, privileges, prerogatives, roy- " alties, liberties, immunities, and franchi- " ſes, as well by ſea as land, within the " regions, territories, iſlands, and limits " aforeſaid, to have, exerciſe, uſe, and en- " joy the ſame, as any Biſhop of Dureſme, " in the biſhoprick or county palatine of " Dureſme, &c. &c."

In the charter of Maryland is granted as follows, " We have thought fit to erect the " ſame into a province, with all and ſingu- " lar the like, and as ample rights, juriſ-

" dictions,

" dictions, privileges, prerogatives, royal-
" ties, liberties, immunities, royal rights
" and franchiſes, of what kind ſoever, tem-
" poral, as well by ſea as by land, within
" the country, iſles, iſlets, and limits afore-
" ſaid, to have, exerciſe, uſe, and enjoy the
" ſame, as amply as any Biſhop of Durham
" within the biſhoprick or county palatine
" of Durham, in our kingdom of England,
" hath any time heretofore had, held, uſed,
" or enjoyed, or of right ought, or might
" have had, held, uſed or enjoyed."

The charter of the 15th of Charles the firſt, to Sir Ferdinando Gorges, erects, creates, and incorporates, all the premiſes granted into a province or county, called the province or county of Main, granting him all and ſingular, and as large and ample rights, juriſdictions, privileges, prerogatives, royalties, liberties, and immunities, franchiſes and preheminencies, as well by ſea as land, within the premiſes, as the Biſhop of Durham hath within the county palatine of Durham.

The charter of Penſylvania *erects the ſaid country into a province or ſeignory*, in the recital of the powers of which all the *regalia* are granted; and eſpecially the power and privilege

privilege of not being taxed but by the conſent of the freemen, or in parliament.

By the charter of William and Mary, the provinces of the Maſſachuſets-bay was "*erected and incorporated into a real province,*" in the powers of which the Jura Regalia are deſcribed and fully granted.

All theſe provinces have the power of peace and war, of exerciſing law martial, of life and death, of creating towns, counties, and other corporations within themſelves; and the powers of their general aſſemblies are very different from, and go beyond the powers of our common councils within the realm.

The fact is, that the conſtitution of the government of England, as it ſtood at that time, founded upon, or built up with the feudal ſyſtem, could not extend beyond the realm. There was nothing in the nature of the conſtitution providing for ſuch things as colonies, or provinces. Lands without or beyond the limits of the realm, could not be the property of the realm, unleſs by being united to the realm. But the people who ſettled upon theſe lands in *partibus exteris*, being the King's liege ſubjects, the King, as ſovereign Lord, aſſumed the right of

of property, and of government. Yet the people being intitled to the rights, privileges, &c. of freemen, the King eſtabliſhed by his commiſſion of government, or charters, theſe colonies as free ſtates, ſubordinate according to ſuch precedents or examples as his miniſtry thought ſuitable to the preſent caſe; and the county palatine of Durham became this precedent, and the model of this conſtitution as to the *regalia*. This was the actual ſtate of the circumſtances of our coloniſts at their firſt migration, and of the colonies at their firſt ſettlement; and had nothing further intervened, would have been their conſtitution at this day. Let us examine what has intervened, and mark as preciſely as we can, where power has attempted, and where right has effected any change in theſe circumſtances.

Notwithſtanding this mode of conſtitution, acknowleged *de jure*, as well as eſtabliſhed *de facto*, we find, that from the moment that theſe our Kings, and their council, took up the idea of comparing theſe plantations to the duchies of Gaſcoigne or Normandy, as we find in the journals of the Houſe of Commons, before referred to. From that moment the conſtitution of the colonies were treated as being the ſame with that of Jerſey, part of the duchy of Normandy; and

and the ſame mode of adminiſtration was adopted for the colonies as had been uſed and accuſtomed for the government of that iſland.

Appeals from the provincial law courts were eſtabliſhed; not to the courts of equity here in England, not to the Houſe of Lords, according to the conſtitution and cuſtom of England, but as appeals from the courts in Normandy were brought before the King, as Duke in council; ſo here in the plantations, appeals were made to the King in council, according to the ancient cuſtom of Normandy. And the ſame rules for theſe appeals were adopted—" Appeals (ſays Mr. Falle in his account of Jerſey) " may be " brought before the council board, in mat- " ters of civil property, * above the value of " 300 livres Tournois, but no appeal is ad- " mitted in matters of leſs value; nor in " interlocutories, nor in criminal cauſes, " which are judged here to be without " appeal."

As the laws of Jerſey may be reduced under theſe three heads: 1. The ancient cuſtom of Normandy, as it ſtood before the alienation of that duchy, called in the rolls of the itinerant judges *La Somme de Mançel*. This makes what the ſtatute law is in England.

* In the ſame manner appeals may be brought from the colonies, in matters where the value is £ 300.

2. Muni-

2. Municipal or local uſages, which are the unwritten and traditionary law, like the common law in England. 3. Conſtitutions and ordinances made by the King, or his commiſſioners royal; with ſuch regulations and orders, as are from time to time tranſmitted to Jerſey, from the council board.—So Charles the Firſt took up the idea, that the colonies in like manner, his demeſnes in his foreign dominions, might be governed by laws, ordinances, and conſtitutions, made and publiſhed with his conſent, * by his royal commiſſioners, eſtabliſhed for governing the plantations, together with ſuch further inſtructions as ſhould be tranſmitted from the council board; and that theſe commiſſioners, being his council for plantation affairs, might be the dernier court of appeal from the colonies. He left indeed the colonies in ſome degree in poſſeſſion of the ſtatute law of England, as it ſtood before their migration, and allowed them, as far as was conſiſtent with the legiſlation of this his council, the making and uſing their municipal and local laws.

Under theſe Norman ideas of the conſtitution of our colonies, it was a moſt fortunate circumſtance for them, That the iſland

* Vide Appendix, for the Commiſſion at length.

of Jerſey had, by its conſtitution, a right to hold a " convention or meeting of the three " orders or eſtates of the iſlands, in imitation " of thoſe auguſt aſſemblies, known by " that or ſome other name, in great king- " doms and monarchies, a ſhadow, and " reſemblance of an Engliſh parliament." In which, " the King's governor, or lieute- " nant, had a negative voice. The great " buſineſs of which meetings, was the raiſing " money to ſupply public occaſions. For, " (Mr. Falle ſays) as in England, money " cannot be raiſed upon the ſubject, but by " authority of parliament, ſo here it is a re- " ceived maxim, that no levies can be made " upon the inhabitants, but by their own " conſent, declared by their repreſentatives " aſſembled in common-council." It was fortunate, I ſay, for our colonies, that this was the caſe of Jerſey; for there can be no other reaſonable account given, how our co- lonies preſerved this eſſential right of Engliſh- men, but that it happened to be alſo a con- ſtitutional right of his Majeſty's foreign French-Norman ſubjects. This commiſſion indeed was annulled, and a board of planta- tions (at the head of which, as a marine department, the Earl of Warwick was placed, being admiral) was appointed by an ordi- nance of parliament; and after the reſtora- tion, a council of trade and plantations was eſtabliſhed,

eſtabliſhed, and upon that being diſſolved in December, 1674, theſe matters were conducted by a committee of council, until after the revolution, when the preſent board of trade and plantations was appointed. But although, as political liberty became better underſtood, and more effectually eſtabliſhed, in our own conſtitution, the very idea of a privy council making laws for Engliſh ſubjects, though in America, began to be more warily touched upon, and was at laſt finally dropped: Yet the idea of directing, reſtraining, and ſuſpending, in ſome caſes, the exerciſe of their conſtitutional powers of government, by the King's further powers and inſtructions, and authorities under his ſignet, or ſign manual, or by his order in privy council, or even by letters from ſecretaries of ſtate, doth continue too deeply rooted to this day; as alſo this fragment of the Norman cuſtom of appeal to the King, as Duke in council, continues to be the corner-ſtone in the edifice of their judicatories. From the ſtate of matters as above, it is clear, that ſo far as refers to the relation between the King and them, while the King by himſelf, or by his royal commiſſioners, his council, or his committee, aſſumed a right to make and publiſh laws, conſtitutions, and ordinances, as binding upon, and penal againſt, the people of the colonies, without the intervention

vention of their legiſlature. They undoubtedly had a right, and it was their duty to reject them, and to refuſe obedience to them; as alſo to conſider all his royal commands and inſtructions, whether by orders in council, by ſign manual, or by letters from ſecretaries of ſtate, when they aſſumed the port of laws or ordinances, to be no otherwiſe binding on the colonies and provinces, than as royal proclamations, which have in many caſes, a certain authority, *quoad terrorem*, though not that of law. If the coloniſts had at their migration, as natural liberties as above deſcribed, and were, by the commiſſions of government or charters (for I ſee no difference, both equally providing for an uninterrupted and continual ſucceſſion of civil government) eſtabliſhed in the ſame; no orders or inſtructions, which might derive thus from the King alone, to the ſuſpending, reſtraining, or obſtructing the enjoyment of theſe rights and liberties, or the exerciſe of theſe powers, could take effect, or have the force of law.

And as thus of the King's power in the government of the colonies, ſo we may with the ſtronger reaſon venture to pronounce that parliament without the King, as by that committee, or board of plantations, inſtituted by order of parliament in the year 1643,

could have none of thoſe powers which might ſupercede the rights and liberties of the colonies.

How far the power of King and parliament, the whole imperium of Great Britain, may go in conjunction with right, is matter of more difficulty to aſcertain ; and of more danger to decide. If the provinces have any rights, however much ſubordinate, even this imperium muſt be bounded by them. However, I have formed my opinion on this ſubject, and I will ſpeak it out ;—if I am in an error, even error may give occaſion to the riſe of truth.---But this is not the place.

Having ſaid ſo much on the liberties of the people in the colonies, it is right, perhaps neceſſary, to ſay, I am ſure it may be ſaid with the utmoſt preciſion and conviction, That the King muſt retain in himſelf, and in his deputy ſet over them in his government of them, all thoſe ſame preheminences, royal rights, powers and prerogatives, which are veſted in the crown, as part of the government of England. And that whenever the people, or their repreſentatives in the colonies, act towards his royal perſon, or towards his repreſentative, in derogation of theſe rights and powers, they can neither be juſtified by right, or the conſtitution, or even

good

good policy towards themſelves, whatever ſpecious temporary reaſons they may aſſign for it; for this mode of conduct will be permitted to a certain degree only, and for a certain time; but will alway in the end, as it alway hath in fact done, call forth ſome remedy, ſo far as relates to the coloniſts ideas, worſe than the diſeaſe. I will inſtance in one caſe only---The conſtant refuſal of the Aſſemblies to fix permanent ſalaries for the civil eſtabliſhment of government.

The above is the actual and rightful relation between the King and the American colonies; and by the rule of this relation, we ought to review and decide thoſe ſeveral points wherein the crown, or its Governors acting under its commiſſion and inſtructions, differ with the people.

Upon ſuch review it will appear, under this firſt general head, in various inſtances, that the two great points which the Coloniſts labour to eſtabliſh, is the exerciſe of their ſeveral rights and privileges, as founded in the rights of an Engliſhman; and ſecondly, as what they ſuppoſe to be a neceſſary meaſure in a ſubordinate government, the keeping in their own hands the command of the revenue, and the pay of the officers of govern-

ment, as a ſecurity for the conduct of thoſe officers towards them.

Under the firſt head come all the diſputes about the King's inſtructions, and the governor's power, as founded on them.

The King's commiſſion to his governor, which grants the power of government, and directs the calling of a legiſlature, and the eſtabliſhing courts, at the ſame time that it fixes the governor's power, according to the ſeveral powers and directions granted and appointed by the commiſſion and inſtructions, adds " and by ſuch *further powers, inſtruc-* " *tions*, and authorities, as ſhall, at any " time hereafter, be granted or appointed " you, under our ſignet or ſign manual, or " by our order in our privy council." It ſhould here ſeem, that the ſame power which framed the commiſſion, with this clauſe in it, could alſo iſſue its *future orders and inſtructions* in conſequence thereof: but the people of the colonies ſay, that the inhabitants of the colonies are entitled to all the privileges of Engliſhmen; that they have a right to participate in the legiſlative power; and that no commands of the crown, by orders in council, inſtructions, or letters from Secretaries of State, are binding upon them, further than they pleaſe to acquieſce under ſuch,

ſuch, and conform *their own actions* thereto; that they hold this right of legiſlature, not derived from the grace and will of the crown, and depending on the commiſſion which continues at the will of the crown; that this right is inherent and eſſential to the community, as a community of Engliſhmen: and that therefore they muſt have all the rights, privileges, and full and free exerciſe of their own will and liberty in making laws, which are neceſſary to that act of legiſlation,—uncontrouled by any power of the crown, or of the governor, preventing or ſuſpending that act; and, that the clauſe in the commiſſion, directing the governor to call together a legiſlature by his writs, is declarative and not creative; and therefore he is directed to act conformably to a right actually already exiſting in the people, &c. and therefore that ſuch clauſe ought not to be in the commiſſion, or to be underſtood as being of no effect, ſo far as concerns the coloniſts.

When I ſpeak of full uncontrouled independent powers of debate and reſult, ſo far as relates to the framing bills and paſſing them into laws, uncontrouled by any power of the crown or of the governor, as an eſſential property of a free legiſlature; I find ſome perſons in the colonies imagine, that I re-

preſent the colonies as claiming a power of legiſlature independent of the King's or governor's negative.---Theſe gentlemen knowing that it is not my intention to do injuſtice to the colonies, wiſh me ſo to explain this matter, that it may not bear even the interpretation of ſuch a charge---I do therefore here deſire, that the reader will give his attention to diſtinguiſh a full, free, uncontrouled, independent power, in the act of legiſlation,—from a full, free, uncontrouled, independent power, of carrying the reſults of that legiſlation into effect, independent either of the Governor's or King's negative. The firſt right is that which I repreſent the coloniſts claiming, as a right eſſential to the very exiſtence of the legiſlature: The ſecond is what is alſo eſſential to the nature of a ſubordinate legiſlature, and what the coloniſts never call in queſtion. That therefore the point here meant to be ſtated as in debate, is, Whether a ſubordinate legiſlature can be inſtructed, reſtricted, and controuled, in the very act of legiſlation? whether the King's inſtructions or letters from ſecretaries of ſtate, and ſuch like ſignifications of his Majeſty's will and pleaſure, is a due and conſtitutional application of the governors, or of the royal negative?---The coloniſts conſtantly deny it, —and miniſtry, otherwiſe ſuch inſtructions would not be given, conſtantly maintain it.

After

After experience of the confuſion and obſtruction which this dubitable point hath occaſioned to buſineſs, it is time ſurely that it were ſome way or other determined. Or whether in fact or deed, the people of the colonies, having every right to the full powers of government, and *to a whole legiſlative power*, are not under this claim entitled in the powers of legiſlature and the adminiſtration of government, to uſe and exerciſe in conformity to the laws of Great Britain, the ſame, full, free, independent, unreſtrained power and legiſlative will in their ſeveral corporations, and under the King's commiſſion and their reſpective charters, as the government and legiſlature of Great Britain holds by its conſtitution, and under the great charter.

Every ſubject, born within the realm, under the freedom of the Government of Great Britain, or by adoption admitted to the ſame, has an eſſential indefeaſible right to be governed, under ſuch a mode of government as has the unreſtrained exerciſe of all thoſe powers which form the freedom and rights of the conſtitution; and therefore "the "crown cannot eſtabliſh any colony upon— "or contract it within *a narrower ſcale* than "the ſubject is entitled to, by the great

" charter of England*." The government of each colony muſt have the ſame powers, and the ſame extent of powers that the government of Great Britain has,---and muſt have, while it does not act contrary to the laws of Great Britain, the ſame freedom and independence of legiſlature, as the parliament of Great Britain has. This right (ſay they) is founded, not only in the general principles of the rights of a Britiſh ſubject, but is actually declared, confirmed, or granted to them in the commiſſions and charters which gave the particular frame of their reſpective conſtitutions. If therefore, in the firſt original eſtabliſhment, like the original contract, they could not be eſtabliſhed, upon any ſcale ſhort of the full and compleat ſcale of the powers of the Britiſh government,---nor the legiſlature be eſtabliſhed on any thing leſs than the whole legiſlative power; much leſs can this power of government and legiſlature, thus eſtabliſhed, be governed, directed, reſtrained or reſtricted, by any poſterior inſtructions or commands by the letters of Secretaries of State. But upon the ſuppoſition, that a kind of general indetermined power in the crown, to ſuperadd inſtructions to the commiſſions and charter be admitted, where the coloniſts do

* Hiſtorical Review of the Conſtitution and Government of Penſylvania, p. 11.

not

not make a queſtion of the caſe wherein it is exerted, yet there are particular caſes wherein both directive and reſtrictive inſtructions are given, and avowedly not admitted by the coloniſts. It is a ſtanding inſtruction, as a ſecurity of the dependence of the government of the colonies, on the mother country, that no acts wherein the King's rights, or the rights of the mother country or of private perſons can be affected, ſhall be enacted into a law without a clauſe ſuſpending the effect thereof, till his Majeſty's pleaſure ſhall be known. This ſuſpending clauſe is univerſally * rejected on the principles above, becauſe ſuch ſuſpenſion diſfranchiſes the inherent full power of legiſlature, which they claim by their rights to the Britiſh liberties, and by the ſpecial declarations of ſuch in their charters. It does not remove this difficulty by ſaying, that the crown has already in its hands the power of fixing this point, by the effect of its negative given to its governor. It is ſaid, that if the crown ſhould withdraw that inſtruction, which allows certain bills to be paſſed into laws with a ſuſpending clauſe, which inſtruction is not meant as a reſtriction upon, but an indulgence to the legiſlatures; that if the crown

* In ſome caſes of emergency, and in the caſes of the concerns of individuals, the inſtruction has been ſubmitted to, but the principle never.

ſhould

ſhould withdraw this inſtruction, and peremptorily reſtrain its governor from enacting laws, under ſuch circumſtances as the wiſdom of government cannot admit of, that then theſe points are actually fixed by the true conſtitutional power; but whereever it is ſo ſaid, I muſt repeat my idea, that this does not remove the difficulty. For waving the doubt which the coloniſts might raiſe, eſpecially in the charter colonies, how far the governor ought, or ought not, to be reſtricted from giving his aſſent in caſes contrary only to inſtructions, and not to the laws of Great Britain; waving this point, let adminiſtration conſider the effects of this meaſure. In caſes where the bills, offered by the two branches, are for providing laws, abſolutely neceſſary to the continuance, ſupport, and exerciſe of government, and where yet the orders of the crown, and the ſenſe of the people, are ſo widely different as to the mode, that no agreement can ever be come to in theſe points---Is the government and adminiſtration of the government of the colonies to be ſuſpended? The intereſt, perhaps the being of the plantations, to be hazarded by this obſtinate variance, and can the exerciſe of the crown's negative, in ſuch emergencies, and with ſuch effect, ever be taken up as a meaſure of adminiſtration? And when every thing is thrown into confuſion,

fuſion, and abandoned even to ruin by ſuch meaſure, will adminiſtration juſtify itſelf by ſaying, that it is the fault of the Coloniſts? On the contrary, this very ſtate of the caſe ſhows the neceſſity of ſome other remedy.

In the courſe of examining theſe matters, will ariſe to conſideration the following very material point. As a principal tie of the ſubordination of the legiſlatures of the colonies on the government of the mother country, they are bound by their conſtitutions and charters, to ſend all *their acts* of legiſlature to England, to be confirmed or abrogated by the crown; but if any of the legiſlatures ſhould be found to do almoſt every act of legiſlature, by votes or orders, even to the repealing the effects of acts, ſuſpending eſtabliſhments of pay, paying ſervices, doing chancery and other judicatory buſineſs: if matters of this ſort, done by theſe votes and orders, never reduced into the form of an act, have their effect without ever being ſent home as acts of legiſlature, or ſubmitted to the allowance or diſallowance of the crown; If it ſhould be found that many, or any of the legiſlatures of the colonies carry the powers of legiſlature into execution, independent of the crown by this device,—it will be a point to be determined how far, in ſuch caſes, the ſubordination of the legiſlatures of the colonies to the government of the mother

country

country is maintained or ſuſpended ;—or if, from emergencies ariſing in theſe governments, this device is to be admitted, the point, how far ſuch is to be admitted, ought to be determined ; and the validity of theſe votes and orders, theſe Senatus-Conſulta ſo far declared. For a point of ſuch great importance in the ſubordination of the colony legiſlatures, and of ſo queſtionable a caſt in the valid exerciſe of this legiſlative power, ought no longer to remain in queſtion.

The next general point yet undetermined, the determination of which very eſſentially imports the ſubordination and dependance of the colony governments on the government of the mother country, is, the manner of providing for the ſupport of government, and for all the executive officers of the crown. The freedom and right efficiency of the conſtitution require, that the executive and judicial officers of government ſhould be independent of the legiſlative; and more eſpecially in popular governments, where the legiſlature itſelf is ſo much influenced by the humours and paſſions of the people ; for if they do not, there will be neither juſtice nor equity in any of the courts of law, nor any efficient execution of the laws and orders of government in the magiſtracy : according, therefore, to the conſti-

tution

tution of Great Britain, the crown has the appointment and payment of the ſeveral executive and judicial officers, and the legiſlature ſettles a permanent and fixed appointment for the ſupport of government and the civil liſt in general: The crown therefore has, *à fortiori*, a right to require of the colonies, to whom, by its commiſſion or charter, it gives the power of government, ſuch permanent ſupport, appropriated to the offices, not the officers of government, that they may not depend upon the temporary and arbitrary will of the legiſlature.

The crown does, by its inſtructions to its governors, order them to require of the legiſlature a permanent ſupport. This order of the crown is generally, if not univerſally rejected, by the legiſlatures of the colonies. The aſſemblies quote the precedents of the Britiſh conſtitution, and found all the rights and privileges which they claim on the principles thereof. They allow the truth and fitneſs of this principle in the Britiſh conſtitution, where the executive power of the crown is immediately adminiſtered by the King's Majeſty; yet ſay, under the circumſtances in which they find themſelves, that there is no other meaſure left to them to prevent the miſapplications of public money, than by an annual voting and appropriation of the ſala-

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ries of the governor and other civil officers, iſſuing from monies lodged in the hands of a provincial treaſurer appointed by the aſſemblies: For in theſe ſubordinate governments, remote from his Majeſty's immediate influence, adminiſtered often times by neceſſitous and rapacious governors who have no natural, altho' they have a political connection with the country, experience has ſhewn that ſuch governors have miſapplied the monies raiſed for the ſupport of government, ſo that the civil officers have been left unpaid, even after having been provided for by the aſſembly. The point then of this very important queſtion comes to this iſſue, Whether the inconveniencies ariſing, and experienced by ſome inſtances of miſapplications of appropriations (for which however there are in the King's courts of law, due and ſufficient remedies againſt the offender) are a ſufficient reaſon and ground for eſtabliſhing a meaſure ſo directly contrary to the Britiſh conſtitution: and whether the inconveniencies to be traced in the hiſtory of the colonies, through the votes and journals of their legiſlatures, in which the ſupport of governors, judges, and officers of the crown will be found to have been withheld or reduced on occaſions, where the aſſemblies have ſuppoſed that they have had reaſon to diſapprove the nomination,—or the perſon, or his conduct;—

whether,

whether, I ſay, theſe inconveniencies have not been more detrimental, and injurious to government; and whether, inſtead of theſe colonies being dependent on, and governed under, the officers of the crown, the ſcepter is not reverſed, and the officers of the crown dependant on and governed by the aſſemblies, as the Coloniſts themſelves allow, that this meaſure * " renders the governor, " and all the other ſervants of the crown, " dependant on the aſſembly."---But the operation of this meaſure does not end here; it extends to the aſſuming by the aſſemblies the actual executive part of the government in the caſe of the revenue, than which nothing is more clearly and unqueſtionably ſettled in the crown. In the colonies the treaſurer is ſolely and entirely a ſervant of the aſſembly or general court; and although the monies granted and appropriated be, or ought to be, granted to the crown on ſuch appropriations, the treaſurer is neither named by the crown, nor its governor, nor gives ſecurity to the crown or to the Lord High Treaſurer, (which ſeems the moſt proper) nor in many of the colonies, is to obey the governor's warrant in the iſſue, nor accounts in the auditor's office, nor in any one colony is it admitted, that he is liable to ſuch account. In conſequence of this ſuppoſed ne-

* Smith's Hiſtory of New York, p. 118.

ceſſity,

ceſſity, for the aſſembly's taking upon them the adminiſtration of the treaſury and revenue, the governor and ſervants of the crown, in the ordinary revenue of government, are not only held dependant on the aſſembly, but all ſervices where ſpecial appropriations are made for the extraordinaries which ſuch ſervices require, are actually executed and done by commiſſioners appointed by the aſſembly, to whoſe diſpoſition ſuch appropriations are made liable. It would be perhaps inviduous, and might tend to prejudging on points which ought very ſeriouſly and diſpaſſionately to be examined, if I were here to point out in the ſeveral inſtances of the actual execution of this aſſumed power, how almoſt every executive power of the crown lodged in its governor, is, where money is neceſſary, thus exerciſed by the aſſembly and its commiſſioners. I therefore reſt the matter here.

In the firſt edition of this book I pointed out the meaſure of the government's ſettling fixed ſalaries on the officers of the crown in America, independant of the people. I afterwards withdrew this propoſition, from an apprehenſion of the evils which might ariſe to the ſervice by theſe fixed and permanent ſalaries, having a tendency to render the chief offices ſinecures, procured by the

the corruptors for the corrupted, in reverſions, from generation to generation. This meaſure, hath been ſince eſtabliſhed by parliament. But why, thoſe who had the conduct of it would not admit a clauſe, providing that ſuch ſalaries, hereafter to be eſtabliſh'd, ſhould be given to no perſon but to ſuch as actually executed the office, is not very eaſy to conceive, unleſs from ſuggeſtions that one would not willingly take up againſt the integrity of their intentions.---If that act ſhould ever be explained, or amended by any ſubſequent law, it is to be hoped, that this clauſe would not again be omitted.

The ſame motive, and reaſon which weigh'd with government, to adopt this meaſure of fixing ſalaries for the civil officers of the crown in America during the time of their ſerving, ſhould operate, to induce government to take one ſtep further, in order to render the meaſure quite effectual, that is, to ſettling ſome half-pay or other penſion, on ſuch officers as are from age or ill health removed; or after long ſervices in that country, are permitted to return home. The appointments of the governors &c. are ſuch, wherein no fortunes can either be made, or ſaved with honor.---If they have no fortunes of their

own, they muſt, after their ſervices, return home to ſtarve. " There is no man" (ſays an American, the intelligent author of the Hiſtorical Review of Penſylvania) " long, or much converſant in this over-" grown city [London] who hath not often " found himſelf in company with the ſhades " of departed governors, doomed to wan-" der out the reſidue of their lives, full of " the agonizing remembrance of their paſt " eminence, and the ſevere ſenſation of " preſent neglect. *Sir William Keith*, upon " his return, was added to this unfortunate " liſt, concerning whom, the leaſt that can " be ſaid is, that either none but men of " fortune ſhould be appointed to ſerve in " ſuch diſtinguiſh'd offices; or otherwiſe " for the honor of government itſelf, ſuch " as are recalled without any notorious im-" putation on their conduct ſhould be pre-" ſerved from that wretchedneſs and con-" tempt which they have been but too fre-" quently permitted to fall into, for want " even of a proper ſubſiſtance."----The means of avoiding this wretched iſſue of their ſervice, by making up a fortune to live on when they ſhall be recalled, is a tempta-tion which ought to be removed from this ſituation, by thoſe who regard the King's ſervice, even if they have no feelings of compaſſion for his ſervants.---A ſmall pit-

tance

tance would pay this, and that very ſum might engage the ſervices of theſe half pay officers in a way not unuſeful to government.---They might, in conſideration of this pay, be directed to attend the Board of trade or whatever board or officer was for the time being, the acting miniſter for the buſineſs of America, in order to give explanations, or opinions, as they ſhould be required; or even to report, if ever they ſhould be thought worthy to have any matter, requiring a report, refer'd to them; they might be formed into a kind of ſubordinate board for this purpoſe.---The benefit of ſuch a meaſure needs not to be expatiated upon, and to explain the operation of it would be too minute a detail for the curſory mention which I here make of it.

It is a duty of perfect obligation from government towards the colonies, to preſerve the liberty of the ſubject, the liberty of the conſtitution: It is a duty alſo of prudence in government towards itſelf, as ſuch conduct is the only permanent and ſure ground, whereon to maintain the dependance of thoſe countries, without deſtroying their utility as colonies.

The conſtitutions of theſe communities, founded in wiſe policy, and in the laws of

the Britiſh conſtitution, are eſtabliſhed by their ſeveral charters, or by the King's commiſſion to his governors, being in the nature of a charter of government. In theſe, all the juſt powers of government are deſcribed and defined, the rights of the ſubject and of the conſtitution declared, and the modes of government agreeable thereto eſtabliſhed. As theſe paſs under the great ſeal, no juriſdictions or offices will be inſerted in the powers granted, but what are agreeable and conformable to law, and the conſtitution of the realm. Although the King's commiſſion is barely a commiſſion during pleaſure, to the perſon therein named as governor, yet it provides for a ſucceſſion without vacancy, or interregnum, and is not revoked but by a like commiſſion, with like powers: It becomes the known, eſtabliſhed conſtitution of that province which hath been eſtabliſhed on it, and whoſe laws, courts, and whole frame of legiſlature and judicature, are founded on it: It is the charter of that province: It is the indefeaſible and unalterable right of thoſe people: It is the indefeaſible right by which thoſe colonies thus eſtabliſhed, are the colonies of Great Britain, and therefore not to be altered; but by ſuch means as any reform or new eſtabliſhment may take place in Great Britain: It cannot, in its eſſential parts, be altered or deſtroyed by

by any royal inſtructions or proclamation; or by letters from ſecretaries of ſtate: It cannot be ſuperceded, or in part annulled, by the iſſuing out of any other commiſſions not known to this conſtitution.

In theſe charters, and in theſe commiſſions, the crown delegates to the governor for the time being, all its conſtitutional power and authority civil and military—the power of legiſlation ſo far as the crown has ſuch---its judicial and executive powers, its powers of chancery, admiralty juriſdiction, and that of ſupreme ordinary.—All thoſe powers, as they exiſt and reſide in the crown, are known by the laws and courts of the realm, and as they are derived to the governors are defined, declared, and *patent*, by the charters and commiſſions *patent*. It is therefore the duty and true intereſts of the Coloniſts to maintain theſe rights, theſe privileges, this conſtitution: It is moreover the duty and true intereſt of King, Lords, and Commons, to be watchful over, to ſupport and defend theſe rights of the colonies: It is the duty of adminiſtration to have conſtant regard to the exerciſe of them, otherwiſe it will be found a dangerous thing to have given ſo much of civil power out of the King's hands, and to have done ſo little to maintain thoſe into whoſe hands it is entruſted. How far the

eſtabliſhment of the office and power of a military commander in chief, not ſubordinate but ſuperior to theſe conſtitutional commanders in chief, how far the ſuperceding of the *Conſular* power of the Governors, by eſtabliſhing, not for the time of war only, but as a ſettled ſyſtem, this *Dictatorial* power, with a juriſdiction extending over the whole of the Britiſh empire in America, is conformable to law, to prudence, or ſound policy, is matter of very ſerious conſideration to thoſe who regard the liberties of the conſtitution.

All military power whatſoever, as far as law and the conſtitution will juſtify the eſtabliſhment of ſuch, is reſident in the eſtabliſhed office of governor, as Captain general and commander in chief. There is no power here granted, but what is ſpecified and defined by the nature of the conſtitution. The ſubject and ſtate is duly guarded againſt any extenſions of it, by the ſeveral laws which the legiſlatures of the ſeveral colonies have provided to limit that power; and it can be exerciſed by none but ſuch perſons as are within the juriſdiction of the province, who deriving their powers from the ſupream powers are amenable to the laws of the province; and to the governor, who is himſelf ſpecially reſponſible for the truſt. This power thus limited becomes part of the conſtitution of the province, and unleſs thus limited,

limited, and thus conſidered as part of the conſtitution of the government, it may be matter of great doubt, whether the crown would be adviſed to erect any military powers whatever. But under ſuch limitations, and as a known eſtabliſhed part of the conſtitution, the crown may ſafely grant theſe powers, and the people ſafely live under them, becauſe the governor is " required " and commanded to do and execute all " things in due manner, that ſhall belong " unto *the truſt* repoſed in him, according " to the ſeveral powers and authorities men- " tioned in the charter." That is to ſay, according to thoſe powers which in charter governments are expreſsly part of the conſtitution; and which from the very nature of the *commiſſion patent* in ſuch conſtitutions as are called King's governments, are likewiſe to be conſidered in the ſame light.— When this military branch of the governor's office is eſtabliſhed and received as part of the conſtitution, the King may ſafely grant, and the people ſafely act under " a power " to levy, arm, muſter, command, and " employ all perſons whatſoever reſiding " within ſuch province; to reſiſt and repell " both at land and ſea, all enemies, pirates, " and rebels, and ſuch to purſue in or out " of the limits of the province: to erect and " build forts, to fortify and furniſh, and to

" commit the command of the ſame to ſuch
" perſon or perſons as to ſuch governor ſhall
" ſeem meet—and the ſame again to diſ-
" mantle or demoliſh: and to do and execute
" all and every other thing which to a cap-
" tain general doth or ought of right to be-
" long, as fully and amply as any other the
" King's captains general doth or hath uſual-
" ly done, according to the powers in the
" commiſſion and charter granted." It be-comes hence a queſtion of the higheſt import, and leading to the moſt dangerous conſequences —Whether, after the conſtitutions and offices of a colony or province are thus eſtabliſhed, the King himſelf can diſmember the ſame, ſo as to grant to any office or officer not known to the conſtitution, any part whatſo-ever of thoſe powers, as he cannot diſ-franchiſe a people having ſuch powers, un-der ſuch charters, of any the leaſt right or privilege included in, or as derived from, the eſtabliſhment of their conſtitution of government? This is a queſtion that it would behove the crown lawyers well to conſider, whenever it ſhall be referred to their conſideration. If every military power that can legally be included in any commiſ-ſion which the crown will be adviſed to iſſue, is already included in the office of governor, as part of the conſtitution of theſe provinces and colonies, what commiſſion can ſupercede

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the ſame, or give power to any other officer than the governor to exerciſe theſe powers within ſuch province? It was ſuggeſted by the writer of theſe papers at the beginning of the late war, that *if the neceſſity of the caſe in time of war* urged to the appointing a military commander in chief of all North America, who ſhould command all military operations, and preſide in general over all military eſtabliſhments for the general ſervice, independent of, and ſuperior to, the powers and authorities already granted to the governors and captains general of the provinces,—it was ſuggeſted, that no commiſſions under the private ſeal and ſign manual could ſupercede, revoke, or take precedence of theſe powers granted by letters patent under the great ſeal, and it was determined accordingly, that the military commander in chief muſt have his commiſſion patent under the great ſeal. But when it came to be conſidered what powers ſhould be granted in this commiſſion, the wiſdom and prudence of the great ſtateſman and lawyer who was then entruſted with that ſeal, iſſued the commiſſion for the commander in chief, in general and indefinite terms, " to have, " hold, exerciſe, and enjoy the ſaid office dur- " ing pleaſure, together with all the powers, " authorities, rights and privileges, thereunto " belonging, ſubject however to ſuch reſtric- " tions, limitations, and inſtructions, as are " given, or to be given, from time to time,

" under

" under the royal ſign manual, and charging
" and requiring all the governors, lieutenant
" governors, deputy governors, and preſi-
" dents of the council of the reſpective co-
" lonies and provinces of North America,
" and all other officers civil or military with-
" in the ſame, to be aiding and aſſiſting in
" this command." Theſe general powers undefined and unknown, and ſuch as no miniſter who adviſes the iſſuing ſuch commiſſion will venture to deſcribe, theſe general words, power and command, either mean nothing, or ſuppoſe every thing, when a juſtifiable occaſion, or perhaps a colourable pretext calls for the exerciſe of them. It was ſeen that theſe general deſcriptions were either dangerous or nugatory, and therefore the commander in chief had at the ſame time, another commiſſion under the private ſeal and ſign manual, in which were inſerted all the powers for governing the forces, &c. which were not thought proper to be included and granted by letters patent under the great ſeal. I am no lawyer, and do not therefore preſume to give an opinion of deciſion, but venture to affirm, that it ought well to be conſidered, Whether if this commiſſion be *now in time of peace* interpreted to extend to any one purpoſe at all, it muſt not extend to much more than can be juſtified by either law or the conſtitution? Whether (the conſtitutions of the provinces and colonies remaining)

maining) the office of a commander in chief exerciſing ſuch powers as are ſuppoſed neceſſary *to the execution of that command*, can be eſtabliſhed over all North America? Theſe military powers, as they exiſt in the governor's commiſſion, exiſt and muſt be exerciſed under the civil limitations and regulations of the conſtitution, nor can any law martial, or any other military ordonnances be publiſhed, without the concurrence of the other branches of the legiſlature. But the difference of this *dictatorial power* of a military commander in chief, and the *conſular* power of the provincial governor, can not be better deſcribed than in the following paſſage: *Ea poteſtas (ſcilicet dictatoria) per ſenatum more Romano magiſtratui maxima permittitur, exercitum parare, bellum gerere, coercere omnibus modis ſocios atque cives: domi militiæque imperium atque judicium ſummum habere: aliter ſine populi juſſu nullius earum rerum conſuli jus eſt* *.

If it ſhould upon conſideration and advice, of which I am no judge, be found that the dictatorial power and command of a military commander in chief, ſuperior to the provincial governors (however neceſſity, in time of war, might juſtify it, *ne quid reſpublica detrimenti capiat)* is not agreeable and conformable to law, and to the conſtitution ei-

* Salluſt, Bellum Catilinarium.

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ther of Great Britain or of the colonies in time of peace; it may be ſuppoſed that ſuch will not be continued in time of peace, and that as ſoon as the * hoſtile ſtate of Indian affairs ceaſes, this power will be made to ceaſe alſo.

In the conſiderations above, I have ſuggeſted the doubt; whether this commiſſion may be right as to law and the conſtitution. But if there be only a doubt of its legality, and there no longer remains an abſolute neceſſity for the continuance of it; I think it may be fairly made to appear, that neither prudence nor ſound policy can juſtify it.

Such powers with ſuch a command may be dangerous to the liberty of the ſubject, to the liberties of the conſtitution of the colonies on one hand: And on the other hand, there are no people in the whole world, when their liberties ſhall become infected and undermined, ſo liable to become the inſtruments of dominion, as a people who have lived under a free and popular government. This has been the fate of the free ſtates of Greece and Italy; this the fate of Rome itſelf:—But may heaven avert, that this ever becomes the ſtate of the Britiſh colonies.

* The firſt edition of this book was publiſhed during the continuance of the hoſtilities of the Indians, after the General Peace amongſt the Europeans. That hath ceaſed.

There is not, there cannot be any danger in this power at preſent in any degree;---but thus planted when it comes to grow, *occulto velut arbor ævo*, when it has taken root, and has ſpread its branches through the land, it will ſoon overtop and overſhadow all the weaker, humbler ſhoots of civil liberty. Set once this lord of the foreſt on a permanent footing, it will ſoon have, as Mr. Harrington ſays, "Toes that have roots, and arms that "will bring forth what fruit you pleaſe."

It is a common obſervation, but it is as trivial as common, which ſuppoſes the danger of the colonies revolting, and becoming independent of the mother country. No one colony can by itſelf become ſo—and no two under the preſent ſtate of their conſtitutions, have any poſſible communion of power or intereſt that can unite them in ſuch a meaſure; they have not the means of forming ſuch; they have neither legiſlative nor executive powers, that are extended to more than one; the laws of one extend not to the other; they have no common magiſtracy, no common command, in ſhort, no one principle of aſſociation amongſt them: On the contrary, as I have ſaid elſewhere, the different manner in which they are ſettled, the different modes under which they live, the different forms of charters, grants, and frame of government which they poſſeſs,

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the various principles of repulſion that theſe create, the different intereſts which they actuate, the religious intereſts by which they are actuated, the rivalſhip and jealouſies which ariſe from hence, and the impracticability, if not impoſſibility, of reconciling and accommodating theſe incompatible ideas and claims, will keep the ſeveral provinces and colonies perpetually independent of, and unconnected with each other, and dependent on the mother country. The particular danger here meant to be pointed out, is that of furniſhing them with a *principle of union*, diſunited from the civil conſtitution, by eſtabliſhing a military commander in chief over the whole. If ever the colonies revolt, and ſet up an empire in America, here begins the hiſtory of it; from this period as from the firſt dynaſty, will future hiſtorians deduce their narrative. The Romans, as long as they governed their provinces by the vigour of policy, preſerved their dependence, and ſee what that policy was.---I will produce two inſtances, one in Italy, the other in Greece; *Cæterùm habitari tantùm, tanquam urbem, Capuam, frequentarique placuit: corpus nullum civitatis nec ſenatûs, nec plebis concilium, nec magiſtratus eſſe, ſine conſilio publico*, ſine imperio, *multitudinem nullius rei inter ſe ſociam ad* conſenſum inhabilem fore *.

* Liv. lib. 26. § 16. lib. 45. § 30.

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The other is as follows, after the Romans had entirely overcome Perſeus, and reduced all Macedonia, they reſtore it to its liberty; but to diſarm that liberty of all power of revolt, they divide Macedon into four regions or provinces, not barely by boundary lines, and geographical diſtinctions, but by diſſevering and ſeparating their intereſts; *diviſæ Macedoniæ, partium uſibus ſeparatis, et regionatim commerciis interruptis* ‡.

Under this policy they preſerved their provinces and maintained the empire of Rome; but when they took up the falſe policy of eſtabliſhing and continuing, in time of peace, military commanders in chief in their provinces, the people of the provinces became an army, and that army ſubverted the empire. "By how much the more remote (ſays Machiavell) their wars were, by ſo much they thought thoſe prorogations more convenient, by which it happened that the commander might gain ſuch an intereſt in the army, as might make it diſclaim the

‡ I beg that it may be here underſtood, that while by this example, I mean to point the danger of giving any principle of union amongſt the ſeveral colonies, and the ſure wiſdom of keeping this diſunion of council and imperium amongſt them, I do from principles of policy as well as thoſe of ſtrict juſtice, invariably recommend the preſervation of their reſpective conſtitutions, in the full uſe and exerciſe of all their rights and privileges.

power

power of the ſenate." Publius Philo was the firſt to whom his military commiſſion was prolonged, and this precedent once ſettled, we hear next of the ſoldiers in Spain declaring L. Marcius imperator in the field. *Res mali exempli imperatores legi ab exercitibus et ſolenne auſpicatorum comitiorum in* caſtra et provincias, *procul ab legibus magiſtratibuſque, ad militarem temeritatem tranferri* †. " This " it was that enabled Marius and Sylla to " debauch the army ; this it was that en- " abled Cæſar to conquer his native country. " It may be objected, that their great affairs " could not have been managed at ſo great " a diſtance, without ſuch commands.—It " is poſſible indeed, that their empire might " have been longer before it came to that " height, but then it would have been " more laſting ; for the adverſary would " never have been able to have *erected a* " *monarchy* and deſtroyed their liberty ſo " ſoon."—This power, monarchical from its very nature, may have been dangerous to a commonwealth, and have ruined the republic by eſtabliſhing a monarchy upon it ; but it will be aſked, How can this ever be the caſe in a regulated monarchy ? Can it be ſuppoſed that any future King can ever wiſh to change that conſtitution in which his power is eſtabliſhed ? Can it be ſuppoſed that

† Lib. 26. § 2.

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a free people could ever be ſo wild as to put themſelves under an unbounded military power, in order to become independent of a limited and civil power? What may be the turn of future events, Heaven only knows; yet experience has taught us that former Kings have thus miſtaken their real intereſt, and former people have been driven to this diſtraction: And if, on any ſuch future occaſion, there ſhould be found eſtabliſhed by repeated and continued cuſtom, by unreſiſted precedents, the office of commander in chief of all North America, not only in the poſſeſſion, but in the actual exerciſe of theſe powers:—*Exercitum parare—bellum gerere —coercere omnibus modis ſocios atque cives*— He might like another Monck, in ſuch critical ſituation, give the turn to the balance, and negotiate, either with the prince, or the people, as his inclinations and intereſts lead him, for the liberties of Great Britain.— If in any future period of events the fate of war ſhould reduce Great Britain to ſtruggle for its rights, its power, perhaps, its ſafety, on terms hardly equal, with all its force, to its ſupport in Europe: And in the courſe of that ſtruggle, there be eſtabliſhed in North America a commander in chief, with an army at his command; with a degree of authority preſiding over the civil power, and civil governors; with an extent of

command capable of aſſociating and uniting a number of powers, otherwiſe, incapable of ſuch union; if ſuch a man, at ſuch a criſis, ſhould have ambition enough to wiſh, and ſpirit enough to dare to ſet up an independent empire in America, he could want, in ſuch criſis, no ſupport that a wiſe and artful enemy to Great Britain would not give him: *Nunc illud eſſe tempus occupandi res dum turbata omnia novâ atque inconditâ libertate eſſent, dum regis ſtipendiis paſtus obverſaretur miles, dum ab Annibale miſſi duces aſſueti militibus juvare poſſent incepta**. The enemy could not wiſh better ground, than ſuch an eſtabliſhment ſo circumſtanced at ſuch a criſis, nor could take a more effectual meaſure for the ruin of Great Britain, than ſetting up and ſupporting an American empire; for there could be no doubt of the ſucceſs of the meaſure, and no doubt of its effect.

The preſent government found already eſtabliſhed, from the neceſſity of things in the ſtate of the laſt war, ſuch a power—and as the effects of that war in America can not be ſaid wholly to ceaſe, † while the Indian affairs wear ſuch an hoſtile appearance, this power is for the preſent continued: But we may confide in the true genuine principles of

* Liv. lib. 24. § 24.

† This is not the caſe now, 1768.

liberty,

liberty, which animate the royal breaſt; we may truſt in the wiſdom and prudence of the King's miniſtry,—that no ſuch officer as that of a military commander in chief, preſiding over all North America, and preceeding in military matters, and in the power *neceſſary to the execution of that command*, the conſtitutional power of governor; we may truſt, * I venture to ſay, that no ſuch office will ever be made an eſtabliſhment *in time of peace*. Regular troops are in the ſame manner and degree neceſſary in North America, as in Britain or Ireland;—but we ſhall ſee them eſtabliſhed there under the ſame relations to the civil power as in Ireland; we ſhall ſee again the civil governments, as eſtabliſhed under commiſſions patent, and charters, predominate. If I, a private perſon, and wholly removed from all advice or conſultation with miniſtry, might be permitted to indulge a conjecture, I would ſuppoſe, from ſome leading meaſures which are already taken, of dividing the American army into commanderies, and putting a ſtop to draughts on general contingencies, that the danger and expence of the office of commander in chief, will ſoon ceaſe: and that the ſeveral commandants of the troops appointed, each to their reſpective diſtricts, having every power neceſſary for the diſ-

* I could venture to ſay ſo much when this was firſt written, and had grounds for what I ſaid.

cipline and government of the regular forces under their command, will be eſtabliſhed in the ſame relation and ſubordination to the civil power of that government, within which their command lies, as the commander in chief in Ireland ſtands to the ſupream civil power of Ireland :—and that as a commander in chief of thoſe forces may in caſe of the commencement of hoſtilities, or of actual open war, be again neceſſary ;—if ſuch neceſſity appears firſt here in Europe, his Majeſty will immediately appoint ſuch, and that if ſuch neceſſity ſhould appear firſt in America, there will be proper proviſion and regulations made for the giving effect to ſuch neceſſary powers, *without leaving it to the judgment or will of the army to ſay when that is neceſſary, or what powers in ſuch caſe, are neceſſary.*—The ſeveral governors of the colonies ſhould have inſtructions, in caſe of ſuch emergency, to meet, and in council to give effect to this command, with ſuch powers as they ſhall judge neceſſary and ſafe to a General commanding in chief, until his Majeſty's pleaſure can be known ; that is to ſay, power of engaging in general expences, of ordering embargoes, of demanding veſſels and carriages, of calling upon the ſeveral governments for their aid in troops, &c. of preparing an army, of taking poſſeſſion of all poſts, forts, and caſtles, (which in the ordinary

ordinary courſe of the King's charters and commiſſions patent to his governors, muſt otherwiſe be under their commands—and cannot be taken from them, unleſs the charters of the government can be ſuperceded) of having the command and diſpoſal of all military ſtores—none of which powers ought to reſide in any one office, whoſe juriſdiction extends over all North America, and preceeds the civil power of governor—unleſs in ſuch caſe of neceſſity—unleſs confirmed (until his Majeſty's pleaſure can be known) by ſuch council, and under ſuch reſtrictions as the prudence of that council would ſee proper. Under ſuch an eſtabliſhment, every caſe of ſervice that could ariſe is provided for, and every caſe of danger that might ariſe from a predominant military power, is guarded againſt.

I muſt the rather ſuppoſe that the military eſtabliſhment will have that mode given to it; as already the commander in chief, as the commiſſion now ſtands, is inſtructed in "making any ſuch preparations as ſhall be neceſſary, and are not contained in his inſtructions, that he ſhall take the opinion and aſſiſtance of the governors."

A review and ſettlement of doubted points is no where more neceſſary, than in the

maxims and rules of their law, and the ſtate of their courts. It is a rule univerſally adopted through all the colonies, that they carried with them to America the common law of England, with the power of ſuch part of the ſtatutes (thoſe concerning eccleſiaſtical juriſdiction excepted) as were in force at the time of their eſtabliſhment; but, as there is no fundamental rule whereby to ſay, what ſtatutes are admiſſible, and what not, if they admit all, they admit the full eſtabliſhment of the eccleſiaſtical juriſdiction, from which they fled to this wilderneſs for refuge ;—if they once make a diſtinction of admitting ſome, and rejecting others, who ſhall draw the line, and where ſhall it paſs? Beſides, as the common law itſelf is nothing but the practice and determination of courts on points of law, drawn into precedents; where the circumſtances of a country and people, and their relation to the ſtatutes and common law differ ſo greatly, the common law of theſe countries, muſt, in its natural courſe, become different, and ſometimes even contrary, or at leaſt incompatible, with the common law of England, ſo as that, in ſome caſes, the determinations ariſing both from the ſtatute and common law *muſt be rejected*. This renders the judicatories of theſe countries vague and precarious, dangerous, if not arbitrary: This leads neceſſarily (let what

care

care will be taken, in forming and enacting their provincial laws) this leads to the rendering the common law of the country different, incompatible with, if not contrary to, and independent of, the law of the mother country, than which nothing can be more disadvantageous to the subject, and nothing more derogatory from the power of the government of the mother country, and from that fundamental maxim, that the colonists shall have no laws contrary to those of the mother country.

I cannot avoid quoting here at length, a very precise and just observation of the author of the history of New York. " The " state of our laws opens a door to much " controversy. The uncertainty with re- " spect to them, renders property precari- " ous, and greatly exposes us to the arbi- " trary decision of bad judges. The com- " mon law of England is generally received, " together with such statutes as were enact- " ed before we had a legislature of our own ; " but our courts exercise a sovereign autho- " rity in determining, *what parts of the* " *common and statute law* ought to be ex- " tended ; for it must be admitted, that the " difference of circumstances necessarily re- " quires us, in some cases, to *reject* the de- " termination of both. In many instances,

" they have alſo extended even acts of par-
" liament, paſſed ſince we have had a diſtinct
" legiſlation, which is greatly adding to our
" confuſion. The practice of our courts is
" not leſs uncertain than the law. Some of
" the Engliſh rules are adopted, others re-
" jected. Two things therefore ſeem to be
" abſolutely neceſſary for the public ſecu-
" rity.

" Firſt, *The paſſing an act for ſettling the* " *extent of the Engliſh laws.*

" *Secondly*, That the courts ordain a ge-
" neral ſet of rules for the regulation of the
" practice."

From this repreſentation of things, by an eminent practitioner in thoſe courts, it muſt be ſeen that ſomething is wanting, to fix determinately the judicial powers.———But from a further review made by government here, it will be found that much more is wanting.—Firſt, to determine (I do not at all take into conſideration which way it be determined, only) I ſay, to determine ſome points on this head, which are, and will otherwiſe remain in diſpute; but which ought by no means to be ſuffered one moment to remain in diſpute.

The

The crown directs its governor to erect courts and appoint the judges thereto.---The actual appointment of the judges is no where *directly* disputed.---But the power of erecting courts, according to this instruction, is, I believe, universally disputed; it being a maxim universally maintained by the Colonists, that no court can be erected but by act of legislature.---Those who reason on the side of the crown,---say,---that the crown does not, by erecting courts in the colonies, claim any right of enacting the jurisdiction of those courts, or the laws whereby they are to act.——The crown names the judge, establishes the court, but the jurisdiction is settled by the laws of the realm; ---and " * customs, precedents, and com-" mon judicial proceedings of a court are a " law to the court, and the determination " of courts make points to be law."——The reasoning of the Colonists would certainly hold good against the erection of any new jurisdiction, established on powers not known to the laws of the realm; but how it can be applied to the opposing the establishment of courts, the laws of whose practice, jurisdiction and powers are already settled by the laws of the realm, *is the point in issue, and to be determined.* It will then be fixed, beyond dispute, whether the crown can, in

* Rep. 16. 4. Rep. 53. fol. 298.

its

its colonies, erect, without the concurrence of the legiſlature, courts of Chancery, Exchequer, King's Bench, Common Pleas, Admiralty, and Probate or Eccleſiaſtical courts.——If it ſhould be determined in favour of the reaſoning, and the claims of the Coloniſts,—I ſhould apprehend that the conſideration of the points under this head, would become an object of government here, even in its legiſlative capacity.——In which view it may be of conſequence to conſider, how far, and on what grounds, the rights of the crown are to be maintained by courts of King's Bench, &c. and how far the revenues by courts of Exchequer, and how far the crown and ſubject may have relief by courts of equity.----If in this view we conſider the defects which muſt be found in Provincial courts, thoſe point out the neceſſity of the eſtabliſhment of a remedial general court of Appeal; but if we view the only mode of appeal, which at preſent exiſts, we ſhall ſee how inapplicable, how inadequate that court is. I cannot, in one view, better deſcribe the defects of the provincial courts in theſe infant governments, than by that very deſcription which my Lord Chief Juſtice Hales gives of our county courts, in the infancy of our own government, wherein he mentions,

" *Firſt,*

" *Firſt*, The ignorance of the judges, who " were the freeholders of the county.

" *Secondly*, That theſe various courts bred " variety of law, eſpecially in the ſeveral " counties, for the deciſions or judgments " being made by divers courts, and ſeveral " independent judges and judicatories, who " had no common intereſt amongſt them " in their ſeveral judicatories, thereby in " proceſs of time, every ſeveral county " would have ſeveral laws, cuſtoms, rules, " and forms of proceedings.——

" *Thirdly*, That all the buſineſs of any " moment was carried by parties and fac- " tions, and that thoſe of great power and " intereſt in the county did eaſily overbear " others in their own cauſes, or in ſuch " wherein they were intereſted, either by " relation of kindred, tenure, ſervice, de- " pendence, or application."

Upon the firſt article of this parallel, it will be no diſhonour to many gentlemen ſitting on the benches of the courts of law in the colonies, to ſay, that they are not, and cannot be expected to be lawyers, or learned in the law. And on the ſecond article it is certain, that although it be a fundamental maxim of colony adminiſtration, that the

colonies ſhall have no laws contrary to the laws of Great Britain, yet, from the fluctuation of reſolutions, and confuſion in the conſtruction and practice of the law in the divers and ſeveral colonies, it is certain, that the practice of their courts, and their common law, muſt be not only different from each other, but in the conſequence different alſo from that of Great Britain. In all the colonies the common law is received as the foundation and main body of their law; but each colony being veſted with a legiſlative power, the common law is thereby continually altered; ſo that (as a great lawyer of the colonies has ſaid) "by reaſon of the diverſity of the reſolutions, in their reſpective ſuperior courts, and of the ſeveral new acts or laws made in them ſeverally; the ſeveral ſyſtems of the laws of thoſe colonies grow more and more variant, not only from one another, but alſo from the laws of England."

Under the third article, I fear experience can well ſay, how powerfully, even in courts, the influence of the leaders of party have been felt in matters between individuals. But in theſe popular governments, and where every executive officer is under a dependence for a temporary, wretched, and I had almoſt ſaid, arbitrary ſupport to the deputies of the people,

people,---it will be no injuſtice to the frame of human nature, either in the perſon of the judges, of the juries, or even the popular lawyer to ſuggeſt, how little the crown, or the rights of government, when oppoſed to the ſpirit of democracy, or even to the paſſions of the populace, has to expect of that ſupport, maintainance, and guardianſhip, which the courts are even by the conſtitution ſuppoſed to hold for the crown---Nor would it be any injuſtice to any of the colonies, juſt to remark in this place, how difficult, if ever practicable it is in any of their courts of common law to convict any perſon of a violation of the laws of trade, or in any matter of crown revenue. Some of our acts of parliament direct the proſecution and puniſhment of the breach of the laws of trade, to take its courſe in the courts of Vice-admiralty: And it has been thought by a very great practitioner, that if the laws of trade were regulated on a practicable application of them to the ſtate of the colony trade, that every breach of them ſhould be proſecuted in the ſame way. That there ſhould be an advocate appointed to each court from Great Britain, who, having a proper ſalary independent of the people, ſhould be directed and empowered to proſecute in that court, not only every one who was an offender, but alſo every officer of the cuſtoms, who

through

through neglect, colluſion, oppreſſion, or any other breach of his truſt became ſuch.---Here I own, was it not for the precedent already eſtabliſhed by ſome of the laws of trade, I ſhould doubt the conſiſtency of this meaſure with the general principle of liberty, as eſtabliſhed in the trials by a jury in the common law courts. If theſe precedents can reconcile theſe proceedings to the general principles of liberty, there can be no more effectual meaſure taken; yet ſuch precedents ſhould be extended with caution. The defect in moſt, and actual deficiency in many of the colonies, of a court of equity; does ſtill more forcibly lead to the neceſſity of the meaſure of ſome remedial court of appeal and equity.——In all the King's governments ſo called,—the governor, or governor and council are the chancellor, or judges of the court of chancery.——But ſo long as I underſtand that the governor is, by his general inſtruction, upon ſound principles of policy and juſtice, reſtrained from exerciſing the office of judge or juſtice in his own perſon, I own I always conſidered the governor, taking up the office of chancellor, as a caſe labouring with inexplicable difficulties. How unfit are governors in general for this high office of law; and how improper is it that governors ſhould be judges, where perhaps the conſequence of the judgment

ment may involve government, and the adminiſtration thereof, in the contentions of parties. Indeed the fact is, that the general diffidence of the wiſdom of this court thus conſtituted, the apprehenſion that reaſons of government may mix in with the grounds of the judgment, has had an effect that the coming to this court is avoided as much as poſſible, ſo that it is almoſt in diſuſe, even where the eſtabliſhment of it is allowed. But in the charter governments they have no chancery at all. I muſt again quote the opinion of a great lawyer in the colonies,— " there is no court of chancery in the char- " ter governments of New England," [and I believe I may add alſo in Penſylvania] " nor " any court veſted with power to determine " cauſes in equity, ſave only that the juſ- " tices of the inferior court, and the juſtices " of the ſuperior court reſpectively, have " power to give relief on mortgages, bonds, " and other penalties contained in deeds; in " all other chancery and equitable matters, " both the crown and the ſubject are with- " out redreſs. This introduced a practice " of petitioning the legiſlative courts for re- " lief, and prompted thoſe courts to inter- " poſe their authority. Theſe petitions be- " coming numerous, in order to give the " greater diſpatch to ſuch buſineſs, the le- " giſlative courts tranſacted ſuch buſineſs by

" orders

" orders or reſolves, without the ſolemnity " of paſſing acts for ſuch purpoſes; and " have further extended this power by re- " ſolves and orders, beyond what a court of " chancery ever attempted to decree, even " to the ſuſpending of public laws, which " orders or reſolves are not ſent home for " the royal aſſent. The tendency of theſe " meaſures is too obvious to need any ob- " ſervations thereon." Nor do I ſee how this meaſure of proceeding can be ventured upon in the colonies, or ſuffered to continue by the government here, if it be ſuppoſed that by 1 Hen. 4. 14. " it is accorded, and " aſſented, that no appeal be from hence- " forth made, or in any wiſe purſued in " parliament in time to come." The gene- ral apprehenſion of theſe defects occaſioned, that at the firſt planting of the colonies, the King in council here in England was eſta- bliſhed as a court of appeals from the pro- vincial judicatories.——At the time of ſet- tling theſe colonies, there was no precedent of a judicatory beſides thoſe within the realm, except in the caſes of Guernſey and Jerſey, the remnants of the dutchy of Normandy, and not united within the realm: according to the cuſtom of Normandy, appeals lay to the Duke in council; and upon this ground, appeals lay from the judicatories of theſe iſlands to the King here, as Duke in council; and upon

upon this general precedent (without perhaps attending to the peculiar caſe of the appeal, lying to the Duke of Normandy, and not to the King) was an appeal from the judicatories of the colonies to the King in council ſettled.——But, beſides the inapplicableneſs of ſuch appeal to the modes of the Engliſh law; beſides, that this appeal does not actually take place in general, and is in ſome of the charter colonies actually excluded, except in perſonal actions, wherein the matter in difference exceeds 300 *l.* ſterling;——beſides the difficulty of this appeal, and inefficiency of this redreſs,—the King in council never being, by the conſtitution, in any other caſe, between ſubject and ſubject, formed as ſuch a court of appeal. This body ſcarce ever, in the temporary and occaſional ſittings, looks like a court; but is rather accidentally or particularly, than officially attended.

Theſe general apprehenſions and reaſonings, upon experience, have led many very knowing and diſpaſſionate men in the colonies, into a conviction of *the neceſſity of ſome eſtabliſhed and conſtitutional court of appeal* and redreſs: and the following meaſure has not only been ſuggeſted, but even taken up as matter of conſideration by ſome of the ableſt lawyers in that country;---namely, the

eſtabliſhment of a ſupreme court of appeal and equity, not confined to any one govèrnment, but circuiting through a certain diſtrict of governments; perhaps as follows; one to Nova Scotia and New England; one to New York, New Jerſeys, Penſylvania, and Maryland---one to Virginia, the Carolinas, and Georgia. It has been imagined, that this court ſhould be eſtabliſhed by a commiſſion iſſued to two or more perſons for each diſtrict, learned in the law, not only of the mother country, but of the ſeveral governments in its ſaid diſtrict: that this commiſſion ſhould give full powers of a court of chancery, with power alſo of judging on matters of law, to be brought before this court, by writ of error, from the ſeveral ſuperior courts of the diſtrict, which this extended to. Such court would become an eſtabliſhed court of appeals and redreſs, would regulate all the courts of law, ſo that they could not exceed their juriſdiction; would have a general ſuperintendency over all inferior courts; would tend to eſtabliſh ſome regularity, and introduce a conformity, not only amongſt the courts themſelves, of the different colonies, but a conformity alſo to the courts of the mother country, in the conſtruction and diſpenſation of law: ſuch court would, more than any other meaſure, not only tend to preſerve the laws, and practice of law in the colonies,

colonies, under a conſtitutional conformity to the laws of the mother country; but would alſo maintain that dependency therein, which is of the eſſence of colony adminiſtration.

There are gentlemen on this ſide the water, who ſeeing that this meaſure is not without defect, and not ſeeing the neceſſity of a court of chancery at all, as there is nothing contrary to the fundamentals of law, that theſe law-courts already eſtabliſhed ſhould equatize; (if I may ſo expreſs myſelf)---think, that inſtead of eſtabliſhing any new courts of chancery,---it would be very proper to aboliſh even thoſe already eſtabliſhed, extending the power which the law-courts already take in chancering bonds, *&c.*——by impowering them to equatize: and after that to take ſuch meaſures as may beſt eſtabliſh a fixt and conſtitutional court of appeals here in England.

Senſible of the danger of innovations, and abhorrent from tampering in experiments of politics, I mention the following rather as a matter of ſpeculation, than to recommend the trial: yet I cannot but obſerve, that while the conſtitutions of the governments of the colonies take ſo exactly the model of the Britiſh conſtitution, it always ſtruck me as a ſtrange deviation in this one particular, that the governor's council of ſtate, although

a diſtinct, and I had almoſt ſaid, an incompatible board,—with the council, one branch of the legiſlature, is yet always conſtituted of the ſame perſons, in general nominated and liable to be ſuſpended by the governor.—— One may ſee many advantages, beſides the general conformity to the government of the mother country, in having theſe boards diſtinct in their perſons, as well as their office. If the council of ſtate remaining under the ſame conſtitution as at preſent, was compoſed of men of the beſt experience, fortune, and intereſt in the colony, taken in common from the legiſlative council, the houſe of repreſentatives, or the courts, while the members of the legiſlative council, independent of the governor for their exiſtence, had all and only thoſe powers which are neceſſary to a branch of the legiſlature, much weight would be added to adminiſtration in the confidence and extent of intereſt that it would thereby obtain; and to the legiſlature a more true and political diſtribution of power, which, inſtead of the falſe and artificial lead, now held up by expedients, would throw the real and conſtitutional balance of power into the hands of government.

There is a matter which at firſt or laſt will be found abſolutely neceſſary to be done, and I would wiſh to recommend it at this time; that

that when the Lords of council ſhall take under conſideration the general ſtate of the adminiſtration of the King's delegated powers in America, they would order a general reviſion of the ſeveral powers granted by the ſeveral boards here in England, to the officers of different kinds, under their reſpective departments: If upon ſuch reviſion they ſhall find that theſe powers are given and granted without any general concert, or any reference to that union which they ought to have, as parts of the one power centering in, and derived from the crown; if they ſhall find that the ſeveral officers and offices in America, though all branches of the one united power of the crown, are by miſchievous rivalſhip of departments, perpetually croſſing and obſtructing each other; if they ſhall find them alternately labouring to depreſs and to depreciate that part of the crown's power, which does not fall within their own delegation; if they ſhall find that while the ſeveral powers of the crown are thus by parts impeached, and rendered contemptible in the eyes of the people, the whole cannot long remain with that authority which ſhould be able to exert an equal and univerſal adminiſtration throughout the colonies: if this diſconcerted delegation of powers, accompanied with this diſtraction in the exerciſe of them, ſhould be found to lead to ſuch conſequence,

ſequence, it will be found, as I have repeatedly ſaid elſewhere, " That it is a dan-
" gerous thing to have truſted ſo much of
" civil power out of the hands of the crown;
" and to have done ſo little to maintain thoſe
" to whom it is intruſted." If this ſhould be found to be the ſtate of things, and there ſhould ariſe a ſerious intention of putting the adminiſtration of the colonies on a practicable footing, their Lordſhips will adviſe, that theſe powers of the crown, delegated through the powers of the ſeveral boards and offices in England, ſhall be ſo granted as not to interfere with each other; ſo granted as not to ſerve the power or purpoſes of individuals, either board offices, or officers; but in ſuch manner as ſhall unite, ſtrengthen, and maintain the powers of the crown, in the true and conſtitutional eſtabliſhment of them; and in ſuch manner as ſhall render the adminiſtration of them in the colonies, uniform, equable, and univerſal, the common bleſſing and protection of the whole.

Having thus far examined into the principles of the conſtitutions of the colonies in that relation, by which they ſtood connected with the King, as Sovereign: and having reviewed thoſe points of colony adminiſtration which derive from thence, marking, in the courſe of that review, ſuch matters

matters as ſeem to require the more immediate attention of government: I will proceed to examine thoſe conſtitutions, in that relation, by which the colonies have become connected to the parliament, to the Empire, not only of the King, as Sovereign, but to the Empire of King, Lords, and Commons, *collectively taken*, as having the whole ſupream power in them, have become connected to the Realm. In whatever predicament the colonies may ſtand, as to their allegiance to the King, which muſt mark out the mode of adminiſtration, by which they ſhould be governed; yet the preciſe ſettlement of this relation and connection, is what muſt decide and determine thoſe points, which have come into diſpute between the government of Great Britain, and the people of the colonies.

And firſt, how much ſoever the colonies, at their firſt migration, may be ſuppoſed to have been, or were in fact, without the Realm, and ſeparated from it: Yet, from the very nature of that union of the community, by which all civil ſociety muſt ſubſiſt, they could not have migrated, and been abſolved of their communion and connection to the Realm, without leave or licence; they had ſuch leave, according to the then forms of the conſtitution, and the

terms were, that the ſociety, community, or government which they ſhould form, ſhould neither act nor become any thing repugnant or contrary to the laws of the Mother Country. Here therefore is an expreſs ſubordination to a certain degree—The Coloniſts allowed the ſubordination, but held their allegiance, as due only to their ſovereign Lord the King.---The direct and neceſſary conſequence of this ſubordination muſt be, that the legiſlature of England (afterward Great Britain) muſt have power to make laws which ſhould be binding upon the Colonies; contrary or repugnant to which the Colonies could not act, either in their legiſlative, or executive capacity---contrary to which they could neither ſettle nor trade.

In the firſt attempts, indeed, which parliament made to exerciſe this power, in aſſerting the right which the people of the realm had, to the uſe of certain poſſeſſions in America, againſt the excluſive claim, which the King aſſumed in the property of it---They were told, that it was not proper for them to make laws about America, which was not yet annexed to the realm, but was of the King's foreign dominions, in the ſame manner, as Gaſcoigne or Normandy were, that they had no juriſdiction over

over thoſe dominions; and the attempt was dropt. In a ſecond attempt, wherein they took up the petition of ſome ſettlers of Virginia, upon the Speaker's reading a letter from the King, the petition was withdrawn,---and we find no more of the parliament, as the conſtitutional legiſlature of the kingdom, interpoſing in theſe affairs until after the reſtoration.

In the year 1643, when the two Houſes of Lords and Commons, had aſſumed the ſovereign executive power of government, and were, in fact, the acting ſovereign, they made an ordinance Nov. 2. * "Where-" by Robert Earl of Warwick is made " Governor in Chief, and Lord High-" Admiral of thoſe Iſlands and other plan-" tations, inhabited, planted or belonging " to any, his Majeſty's the King of Eng-" land's ſubjects, within the bounds, and " upon the coaſts of America." At which time, a † committee was appointed, for *regulating the Plantations*. The colonies indeed, by this ordinance, changed their Sovereign. But the ſovereignty was exerciſed over them in the ſame manner, and

* Scobel's Acts, and Journals of the Houſe of Commons, Nov. 2.

† Journals of the Houſe of Commons, Nov. 2.

in

in the ſame ſpirit as the King had attempted to exerciſe it, by his commiſſion of 1636, for regulating the Plantations.--- That is the parliament, not as legiſlature, but as ſovereign, aſſumed the ſame power of making laws, ordinances, &c. for the Plantations: nay, went one ſtep further, in 1646, and charged them with a tax by exciſe. In 1650 this patent, or commiſſion, was revoked, and the ſame power was lodged in the council of ſtate, who had power ‡ " to grant commiſſion or com-
" miſſions to ſuch perſon or perſons as they
" ſhall think fit, with power to enforce all
" ſuch to obedience, as do or ſhall ſtand in
" oppoſition to the parliament, or their
" authority; and to grant pardons, and to
" ſettle governors in all, or any of the ſaid
" iſlands, plantations and places, and to do
" all juſt things, and to uſe all lawful
" means to ſettle and preſerve them in
" peace and ſafety, until the parliament
" ſhall take further, or other order therein,
" any letters patent, or other authority,
" formerly granted or given, to the con-
" trary notwithſtanding."

During the adminiſtration of this ſo-

‡ Scobell's Acts.

vereignty,

vereignty, an * act paſſed in 1646, exempting the plantations from all cuſtoms, ſubſidies, taxation, impoſition, or other duty, *except the exciſe: provided*, their trade was carried on in Engliſh bottoms, *otherwiſe*, they were made liable to all theſe duties. Alſo, in * 1650, when the Iſlands of Barbadoes, Bermudas, and Antego, and the country of Virginia, continuing to hold for the King, were conſidered as in rebellion; all commerce with them was prohibited. At which time alſo, in the ſame act, " all " ſhips of foreign nations, were forbid and " prohibited to come to, or trade in, or " traffic with any of the Engliſh plantations " in America, or any iſlands, ports, or " places thereof, which are planted by, or " in the poſſeſſion of the people of this " commonwealth, without licenſe firſt " had or obtained from the parliament, " or council of ſtate."

If we conſider the parliament acting here, as the ſovereign, not the legiſlature, if we could look upon it as lawful, or de facto ſovereign for the time being, yet we ſhould

* Note, Theſe acts or ordinances became the ground-work of that act of parliament, after the reſtoration, which was called the navigation act, of which we ſhall take notice, in its proper place.

certainly

certainly view every exertion of its power, in the ſame light, and ſhould examine it by the ſame principles, as we did thoſe of the King, as ſovereign, exerciſed in the iſſuing his grants, charters, or commiſſions. And if we doubt whether the King, as lawful ſovereign, could legally himſelf, exerciſe or commiſſion other perſons to exerciſe thoſe powers, aſſumed in his commiſſion of 1636, of making laws, ordinances and conſtitutions for the plantations; conſidering the inherent, natural and eſtabliſhed rights of the coloniſts—we may *à fortiori* by much more powerful objections, doubt the right of theſe powers in the two houſes called then the parliament acting as ſovereign.—No precedent therefore can be drawn from this period.—

We have ſeen above how at one time the King as ſovereign, without the intervention of the parliament, aſſumed a right, both adminiſtrative and legiſlative, to govern the colonies.—We have ſeen how the parliament, without the intervention of the King's commiſſion, aſſumed as ſovereign the ſame powers. But whatever the natural or eſtabliſhed rights and liberties of the colonies were, at their firſt migration, they could not be ſaid, to be legally ſuſpend-

ed,

ed, abridged or altered by theſe aſſumptions of power.

Upon the reſtoration of the monarchy, when many of the rights of the ſubject, and of the conſtitution were ſettled, the conſtitution of the colonies, received their great alteration: the King participated the ſovereignty of the colonies with the parliament, the parliament in its proper capacity, was admitted to a ſhare in the government of them: The parliament then firſt, taking up the idea, indeed very naturally, from the power they had exerciſed during the commonwealth, that all theſe, his Majeſty's foreign dominions, and "all theſe, "his Majeſty's ſubjects," were of or belonging to the realm, then firſt, in the proper capacity of legiſlature, ſupreme legiſlature of the realm, interpoſed in the regulation and governing of the colonies.---And hence forward, from time to time, ſundry acts of parliament were made, not only 1ſt, for regulating the trade of the colonies, but alſo 2dly, for ordering and limiting their internal rights, privileges and property, and even 3dly, for taxing them.—In the courſe of which events, while the Coloniſts conſidered this principle, that they were to be ruled and governed only by acts of parliament, together with their own laws, not

contrary

contrary to the laws of England, as the palladium of their liberties, the King from time to time, by his miniſters, called in the aid of parliament to enable him to regulate and govern the colonies.—The Britiſh merchants at times applied to parliament, on the affairs of the colonies, and even the Weſt India Planters applied to the ſame power, to carry a meaſure againſt the continent of North America. Hence we find enacted,

I. The navigation act, the ſugar and other acts for regulating and reſtraining the trade of the colonies.

II. Alſo Acts, 1. altering the nature of their eſtates, by treating real eſtates as chattels. 2. Reſtraining them from manufactures. 3. Regulating their money. 4. Altering the nature of evidence in the courts of common law, by making an affidavit of a debt before the Lord mayor in London, &c. certifyed in writing, an evidence in their courts in America. 5. Diſſolving indentures, by diſcharging ſuch of their ſervants as ſhould enliſt in the King's ſervice.

III. Alſo Acts, fixing a tax upon American ſailors, payable to the Greenwich Hoſpital.

pital. 2. Likewiſe impoſing taxes, by the ſeveral duties payable on ſundry goods, if intended as materials of trade, to be paid *within the province*, or colony, *before* they can be put on board, for exportation. 3. Alſo, the revenue ariſing from the *duties* payable on the poſtage of letters. 4. Alſo, the tax of quartering ſoldiers, and ſupplying them in their quarters. Laſtly, eſtabliſhing the claim which Great Britain makes, of taxing the colonies in all caſes whatſoever, by enacting the claim into a declared right, by act of parliament.

From the uncontroverted, and univerſal idea of the ſubordination of the colonies to the government of the mother country, this power, by which the parliament maketh laws that ſhall be binding on the colonies, hath been conſtantly exerted by the government of England, (afterwards Great-Britain) and ſubmitted to by the colonies. The fundamental maxim of the laws of thoſe countries, is, that 1ſt, the common law of England, together with ſuch ſtatutes (the eccleſiaſtical laws and canons excepted) as were enacted before the colonies had a legiſlature of their own. 2dly, The laws made by their own legiſlature; together with 3dly, ſuch acts of parliament, as by a ſpecial clauſe are extended to America, ſince

that

that time, are the laws of each province or Colony. The juriſdiction and power of every court eſtabliſhed in that country; the duty of every civil officer; the proceſs of every tranſaction in law and buſineſs there, is regulated on this principle. Nay further, every * act of parliament paſſed ſince the eſtabliſhment of the colonies, *which reſpects the general police of the realm, or the rights and liberties of the ſubjects of the realm*, although not extended by any ſpecial clauſe to America by parliament, although without the intervention, or expreſs conſent of their own reſpective legiſlatures or repreſentatives, hath been conſidered, and I may venture to ſay, adopted as part of the law and conſtitution of thoſe countries; but by what principle of our conſtitution, by what maxim of law, this laſt practice hath been eſtabliſhed, is not ſo eaſy to aſcertain, any more than it will be eaſy to fix any rule, when the colonies ſhall adopt, or when they may refuſe thoſe kind of laws of the mother country. This ariſes, as I have ſaid, from ſome vague indeciſive idea--- That the colonies are of, or ſome parts of, the realm; but how or what parts, or whether any parts at all, has never yet been thoroughly examined.—

* As the bill of rights, the 7th Wil. 3. &c.

We

We have ſeen what was, in reality, the dependance and ſubordination of the coloniſts to the King, while they were ſuppoſed to be ſubject to him in a ſeignoral capacity. ——We have ſeen what muſt have been the ſame ſubordination, while they were ſuppoſed to be ſubject to the two houſes of Lords and Commons, as ſovereign in the ſame capacity.

Let us take up the next idea, that while they are not of the body of the realm, are no parts or parcel of the ſame, but bodies corporate and politick, diſtinct from and without the realm: * "They are nevertheleſs, and "of right ought to be ſubordinate unto, and "dependant upon the imperial crown of "Great Britain; [i. e. the realm,] and that "the King's Majeſty, by and with the ad-"vice and conſent of the Lords ſpiritual "and temporal, and Commons of Great "Britain aſſembled in parliament, had, hath, "and of right ought to have full power "and authority to make laws and ſtatutes "of ſufficient force and validity, to bind "the colonies and people of America, ſub-"jects of the crown of Great Britain, in all "caſes whatſoever."—In this idea we have a very different ſtate of the relation, namely, the imperial crown of Great Britain, the

* 6 Geo. III. c. 12.

King, Lords and Commons, collectively taken, is ſtated *as ſovereign,* on the one hand, and *the Coloniſts as ſubjects* on the other.——

There is no doubt, but that in the nature, reaſon, juſtice and neceſſity of the thing, there muſt be ſomewhere, *within* the body politic of every government, an abſolute power. The political freedom of Great Britain, conſiſts in this power's being lodged no where but in King, Lords and Commons in parliament aſſembled. This power is abſolute throughout the realm,—and yet the rights and liberties of the ſubject are preſerved, as the *Communitas Populi* is the *body*, of which this *Imperium* is the ſoul, reaſoning, willing, and acting, in abſolute and intire union with it, ſo as to form one political perſon.

There can be no doubt but that this power is abſolute throughout the dominions of the realm; yet in the exerciſe of this power, by the imperial crown of Great Britain, that is, by the King's Majeſty, with the Lords and Commons in parliament aſſembled---towards the colonies, if they are not of this body of the realm, but are ſtill to be conſidered as diſtinct bodies, foreign, or extraneous parts without the realm, and the juriſdiction of this kingdom *.——There

* Blackſtone, B. 1. c. 5.

is ſurely ſome attention due to the nature of this abſoluteneſs in this caſe.

If the people of the colonies are no part of the people, or of the body, of the realm of Great Britain,---and if they are to be ſtated in the argument, as ſubject to the King, not as the head of that compound political perſon, of which they are in part the body, *ſed ut caput alterius populi*, as wearing the imperial crown of Great Britain, as the head to which the realm of Great Britain is the body, and of which body the parliament is the ſoul, but of which the colonies are no part; then this imperial ſupreme magiſtrate, the collective power of King, Lords and Commons, may be ſtated as ſovereign on the one hand, while the people of the colonies ſtand as ſubjects on the other.---

Taking the relation of the colonies to the mother country in this view, when the argument is ſtated in this manner, we ſurely may ſay with exactneſs and truth, that if the coloniſts, by birthright, by nature or by eſtabliſhment, ever were entitled to all the rights, privileges, liberties and franchiſes of an Engliſhman, the abſolute power of this ſovereign muſt have ſome bounds: muſt from its own nature, from the very nature of theſe rights of its ſubjects, be limited in its extenſion and exerciſe.

Upon this ſtate of the caſe, queſtions will neceſſarily ariſe, which I will not take upon me to decide, whether this ſovereign can diſfranchiſe ſubjects, ſo circumſtanced, of their rights becauſe they are ſettled beyond the territorial limits of the realm; whether theſe ſubjects, thus circumſtanced can, becauſe they are ſuppoſed not to be of the realm, loſe that intereſt in the legiſlative power, which they would have had if they were of, or within the realm.——Whether this natural right which they have to perſonal liberty, and to political freedom is inherent in them "to all intents and purpoſes, as tho' they had been born within "the realm:" Or whether "*it is to be "underſtood, with very many *and very "great reſtrictions.*" Whether theſe people, from the nature of theſe inherent rights and liberties, are intitled to have, and have a right to require a conſtitution of the ſame political liberty as that which they left; or whether ‡ "the whole of their conſtitutions "are liable to be new modelled and re-"formed,"---at the will of this ſovereign. Whether the legiſlative part of their conſtitution is, they being diſtinct, altho' ſubordinate, dominions, and no part of the mother country, an inherent right of a body of Engliſhmen, ſo

* Blackſtone, Introduction § 34.

‡ Ibid.

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circumſtanced, or whether it can be ſuſpended, or taken away at the will of this ſovereign. In ſtating theſe doubts I do not here add the queſtion, which in time paſt hath been raiſed, on the right which this ſovereign hath, or hath not, to impoſe taxes on theſe ſubjects, circumſtanced as above ſtated, without the intervention of their own free will and grant.—Becauſe, let theſe other queſtions be decided how ſoever they may, this ſtands upon quite other ground, and depends upon quite other principles.

So long as the government of the mother country claims a right to act under this idea, of the relation between the mother country and the colonies; ſo long as the colonies ſhall be eſteemed in this relation, as "*no part of the mother country*;" ſo long will the coloniſts think they have a right to raiſe theſe queſtions; and that it is their duty to ſtruggle in the cauſe, which is to decide them; and ſo long will there be faction and oppoſition inſtead of government and obedience.

But the matter of perplexity is much ſtronger, in the queſtions which have been raiſed, as to the right of impoſing taxes on the ſubject, ſo ſtated.

In the ſame manner as in the act of granting a general pardon, the King alone is the originating and framing agent; while the other two branches of the legiſlature, are only conſenting thereto, that it may be an act of parliament: ſo in the ſame manner in the act of granting ſupplies, by impoſing taxes on the people, the houſe of commons is the ſole originating and framing agent, " as to " the matter, meaſure and time;" while the King and lords act only as conſentients, when it becomes an act of parliament. In one caſe the King acts as chief magiſtrate, repreſenting and exerciſing the collective executive power of the whole realm: in the other, the commons act, as " granting for the counties, cities and " boroughs whom they repreſent *."

If in the act of taxing, the parliament acted ſimply in its capacity of ſupream legiſlature, *without any conſideration had to the matter of repreſentation* veſting in the commons, I know of no reaſon that can be aſſigned, why the reſolve to give and grant ſhould not originate from, and be framed or amended by another branch of the legiſlature as well as by the commons. The only reaſon that I find aſſigned, and the only one I venture to rely upon, for explaining that right of the commons to originate,

* Comm. Journ. 1672.

and

and form the reſolve of giving and granting; and to ſettle the mode of charging, and impoſing taxes on the people, to make good thoſe grants; and to name commiſſioners, who ſhall actually levy and collect ſuch taxes; " as a fundamental conſtitution," is that which the commons themſelves have given, that " the commons grant for the " counties, cities and boroughs *whom they* " *repreſent*,"—and that the word " grant," when ſpoken of the lords, " muſt be un- " derſtood only of the lords aſſent, to what " the commons grant; becauſe the form of " law requires, that both join in one bill, to " give it the force of law."——Therefore, previouſly inſerting this caution, that I do not preſume to form an opinion, *how* they repreſent the property of, or grant for the lords; and without reaſoning on *this mode* of the right: " for it is a very unſafe thing " in ſettled governments, to argue the rea- " ſon of the fundamental conſtitutions!" The fact is, that this right is ab initio, a fundamental conſtitution, in that the commons grant for the counties, cities and boroughs whom they repreſent; and that they do, in fact, repreſent the property of the realm; although copyholders, and even freeholders within the precincts of boroughs, or within the counties of cities, not being freemen or burgeſſes in ſuch boroughs, have no vote in

the election of them:——For the property of the copyholder is represented by it's lord; and the property within the borough or city, is actually represented by the corporation or body of freemen in such borough or city, who chuse the member of parliament.

Although it should be willingly acknowledged without dispute, by the Americans, even upon this stating of the case, that the legislative power of parliament extends throughout America in all cases whatsoever; yet, as to the matter, measure and time, in the article of taxes, originating with, and framed by the commons; "granting for the counties, cities and boroughs "whom they represent;" it would greatly relieve the perplexity and doubts, which have raised questions, much agitated, if any one could, according to this state of the case, and according to this reasoning, shew how the commons do represent the property in America, when stated as being without the realm; and no part of any county, city or borough of the same: and how the freeholders of that property are represented, even as the copyholder and landholder within a borough or city is represented. For, so long as the case shall be so stated, that the Colonies are neither within the realm, nor any part of it; or of any county, city

or

or borough within the ſame; until it can be poſitively demonſtrated, either that in granting ſupplies, by impoſing taxes, the commons *do not act in virtue of their repreſenting* the counties, cities and boroughs for whom they grant; or that in granting for the counties, cities and boroughs whom they repreſent, they do alſo repreſent the property of America; the people of America will diſtinguiſh their not acknowledging the power of the commons of Great Britain in the caſe of granting for them, as a very different caſe, from that under which they acknowledge their ſubordination to the legiſlative power of parliament.—Nay, further, every reaſon which the commons give for that fundamental right of granting ſupplies, and impoſing taxes on the counties, cities and boroughs whom they repreſent; and every precedent which the commons alledge for the exerciſe of this right; the people of America will uſe, and alledge for and apply to their own ſpecial caſe, in a way that may be very perplexing, unſafe and dangerous to fundamental conſtitutions. But all this perplexity and danger ariſe from ſtating the Coloniſts as ſubjects of the realm, at the ſame time that the Colonies are ſtated as being no part of the realm, as no otherwiſe connected to it than by their ſubjection.

On

On the other hand, let us review the ſtate of this matter as it ſeems actually to have ſtood. If the ſtate of it which we ſhall repreſent, cannot and muſt not be ſuppoſed right in law; may we be permitted to ſtate it, at leaſt, as an hypotheſis.

The Colonies, from their remote diſtance, and local circumſtances, could not have been incorporated into any county, city or borough; at leaſt ſo it is ſaid: and yet, at the ſame time, they are ſuppoſed to be, and conſidered as, within the dioceſs of London. The Coloniſts were conſidered as having gone forth from, and having *quitted the realm*; as having ſettled on lands *without the realm*.

The Colonies thus remote and ſeparate from the realm, were formed, and incorporated into diſtinct communities; were erected into provinces; had the jura regalia granted to them; were, in conſequence thereof, to all intents and purpoſes, *counties palatine*, in like and as ample manner as the county palatine of Durham was, ſome matters of form excepted. They were dominions of the King of England; although, according to the language of thoſe times, "not yet annexed to the crown." They were under the juriſdiction of the King, upon

upon the principles of fœdal ſovereignty: although conſidered " * *as out of the juriſ-* " *diction of the kingdom.*" The parliament itſelf doubting, at that time, whether it had juriſdiction to meddle with thoſe matters, did not think proper to paſs bills concerning America.——The Colonies had therefore legiſlatures peculiar to their own ſeparate communities; ſubordinate to England, in that they could make no laws contrary to the laws of the mother country; but in all other matters and things, free uncontrouled and compleat legiſlatures, in conjunction with the King or his deputy as part thereof.

When the King, at the reſtoration, participated this ſovereignty over *theſe his foreign dominions*, with the lords and commons, the Colonies became *in fact*, the dominions of the realm——became ſubjects of the kingdom.——They came, in fact, and by an actual conſtitutional exerciſe of power, under the authority and juriſdiction of parliament. They became connected and annexed to the ſtate: By coming as parts of the Britiſh realm, not as a ſeparate kingdom, (which is the caſe of Ireland) under ſubjection to the parliament, they became par-

* Blackſtone, B. 1. c. 5.

ticipants

ticipants of the rights and liberties on which the power of parliament is founded. By the very act of extending the power of parliament over the Colonies, the rights and liberties of the realm muſt be alſo extended to them, for, from the nature of the Britiſh conſtitution, from the conſtitution of parliament itſelf, they, as parts, can be ſubject by no other mode, than by that in which parliament can exerciſe its ſovereignty; for, the nature of the power, and the nature of the ſubjection muſt be reciprocal. They became therefore *annexed*, although perhaps *not yet united parts* of the realm. But to expreſs all that I mean, in a propoſition that can neither be miſunderſtood nor miſinterpreted; they from that moment (whatever was their prior ſituation) ſtood related to the crown and to the realm literally and preciſely in the ſame predicament, in which the county Palatine of Durham ſtood; that is, ſubject to be bound by acts of parliament in all caſes whatſoever; and even "liable "to all rates, payments and ſubſidies granted "by parliament;" although the inhabitants of theſe countries, "have not hitherto had "the liberty and privilege of ſending "knights and burgeſſes to parliament of "their own election." And, in the ſame manner alſo, becauſe in that, the inhabitants of the county Palatine of Durham were

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liable to all rates, payments and ſubſidies granted by parliament; and were therefore concerned, with others the inhabitants of this kingdom, to have knights and burgeſſes in parliament, *of their own election*; to repreſent the condition of their country, as the inhabitants of other countries had,——it was by act of parliament enacted, that they ſhould have ſuch: in the ſame manner, I ſay, whenever theſe colonies ſhall be conſidered in parliament, as objects of taxation, and be rendered liable to rates, payments and ſubſidies granted by parliament out of their property——they will become concerned equally with others the inhabitants of this kingdom, to have knights and burgeſſes in parliament, *of their own election*, to repreſent the condition of their country, as the inhabitants of other countries have,——and of right ought to have; although a right in parliament, to make laws for governing, and taxing the Colonies, may and muſt, *in the order of time*, precede any right in the Colonies, to a ſhare in the legiſlature: yet there muſt ariſe and proceed pari paſſu, a right in the Colonies to claim, by petition, a ſhare in the repreſentation, by having knights and burgeſſes in parliament, of their own election; to repreſent the condition of their country. And as in ſuch circumſtances, this right ſhall ariſe on one hand,

ſo

ſo on the other, it may become a duty in government, to give them power to ſend ſuch repreſentatives to parliament; nay, could one even ſuppoſe the Colonies to be negligent in ſending, or averſe to ſend ſuch repreſentatives, it would, in ſuch caſe, as above ſettled, become the duty of government to require it of them.

Although from the ſpirit and eſſence of our conſtitution, as well as the actual laws of it, " the whole body of the realm, and " every particular member thereof, either " in perſon, or by repreſentation, (upon " their own free election) are, by the laws " of the realm, deemed to be preſent in the " high court of parliament †." Yet as the circumſtances of the ſeveral members of this body politic muſt be often changing; as many acquiſitions and improvements, by trade, manufactures and Colonies, muſt make great changes in the natural form of this body; and as it is impoſſible, both from the gradual nature of theſe changes, and from the mode of the repreſentative body, that this repreſentative body can, in every inſtance and moment, follow the changes of the natural paſſibus æquis; it muſt neceſſarily at times, from the nature

† 1 Jacobi I.

of

of things, *not be an actual repreſentative.*— Although, from the nature of the conſtitution of government, it muſt, in the interim, continue to be a juſt and *conſtitutional repreſentative.* And hence, from the laws of nature, as well as from the nature of our own laws and conſtitution, ariſes the juſtice and right, which parliament always hath had to render ſeveral members of the realm liable to rates, payments and ſubſidies, granted by parliament; although ſuch members have not, as yet, had the liberty and privilege to ſend knights and burgeſſes to parliament, of their own election. Yet on the other hand, as the principle, that no free people ought to be taxed, but by their own conſent, freely originating from, and given by themſelves or their repreſentatives, is invariable, abſolute and fixed in truth and right, ſo the mode of the repreſentation in parliament, hath from time to time, altered, ſo as to extend to, and to ſuit the mode, under which the repreſented were, from time to time, found to exiſt. Hence it was, that many towns, boroughs, counties, and even dominions, which from any thing that did exiſt, or was to be found in their antiquas libertates, and liberas conſuetudines, were not previouſly repreſented by members of parliament of their own election; have, as they acceded to the realm, or encreaſed within

within the realm, ſo as to be equally concerned, to have knights, and burgeſſes in parliament of their own election, to repreſent them equally as other inhabitants of the realm have, according to ſuch modes as were at the time admitted to be legal and conſtitutional, been called to a ſhare in the common-council of the realm. Hence it was that the county Palatine of Durham, after many tryals, and a long ſtruggle, was admitted to the privilege of ſending knights and burgeſſes to parliament;—but of this caſe enough has already been ſaid.

In the time of King Henry VIII, we find parliament *reaſoning and acting* upon this very principle in the caſe of the county of Cheſter. —The *reaſoning of parliament* ſets forth †, " that the King's county Palatine of Cheſ-
" ter, had hitherto been excluded out of
" his high court of parliament, to have any
" knights within the ſaid court.—By rea-
" ſon whereof, the inhabitants had ſuſ-
" tained manifold diſheriſons, loſſes and da-
" mages, as well in their lands, goods and
" bodies, as in the good, civil and politic
" government of their ſaid county.——
" That foraſmuch as they have alway hi-
" therto *been bound by the acts and ſtatutes*,

† 34 and 35 of Henry 8.

" made

" made and ordained by the King, by au-
" thority of the ſaid court, as far forth as
" other counties who had knights and bur-
" geſſes in parliament;——and yet had nei-
" ther knights nor burgeſſes:—The inhabi-
" tants for lack thereof have been often times
" grieved with acts and ſtatutes, made within
" the ſaid court derogatory to their ancient
" privileges and liberties, and prejudicial to
" the common-wealth, quietneſs, reſt and
" peace of the King's bounden ſubjects in-
" habiting within the ſame. For remedy
" whereof, the parliament *acts*—and it is
" enacted, that the county of Cheſter
" ſhould have two knights, and the city
" two burgeſſes, which knights and bur-
" geſſes are to have the *like voice and autho-*
" *rity*, to all intents and purpoſes,——the
" like liberties, advantages, dignities, pri-
" vileges, &c. with other knights and bur-
" geſſes."

Hear alſo, *the reaſoning*, and view the *acts* of parliament, in the caſe of the acquiſition of the dominions of Wales *, ſubject to the imperial crown of, although not yet incorporated or annexed to, the realm.——The reaſoning ſets forth, that Wales ever had been united and ſubject to the imperial

* 27th of Hen. 8. cap. 6.

crown of the realm, and to the King, *its very Head, Lord and Ruler*.——That the principality and *dominions* had rights, laws and cuſtoms, different from the laws, &c. of *this realm*.

That the people of *that dominion* had a ſpeech different from the tongue uſed in *this realm*.

——Thence ſome *ignorant people made a diſtinction* between the King's *ſubjects of the realm*, and *his ſubjects of the principality*.—His Highneſs, therefore, out of love to his ſubjects of the principality, and to bring *his ſubjects of the realm* and *his ſubjects of the principality* to *concord and unity*, by advice of Lords and Commons, and by authority of the ſame hath enacted, that henceforth and for ever, his ſaid *country and dominion of Wales*, ſhall be incorporated, united and annexed to *this realm of England*; and that all, ſingular perſon and perſons, born, and to be born in the ſaid principality of Wales, ſhall have, and enjoy all the ſame freedoms, liberties, rights, privileges and laws within this his realm, and *other* the King's dominions, as other the King's ſubjects, naturally born within the ſame, have, enjoy and inherit; and that knights and burgeſſes ſhall be elected, and ſent to repreſent them in par-

parliament, with all the like dignity, pre-eminence and privilege as other knights and burgeſſes of the parliament have and be allowed.

We alſo find, upon the acquiſition of Calais to the King's dominions, that King Edward turned all the French inhabitants out of it; planted *an Engliſh Colony there*, with all the rights, freedom, privileges, &c. of natural born ſubjects within the realm, and that *this Colony ſent burgeſſes* to parliament.

Seeing then how exactly, and to the minuteſt circumſtance, ſimilar the caſe of the *Colonies erected into provinces*, is to theſe counties Palatine, to thoſe acquired and annexed dominions; can the ſtateſman, whether in adminiſtration or in parliament, reaſon or act towards the Colonies in any other mode, or by any other acts, than what the foregoing give the wiſeſt and happieſt examples of?

It is a firſt and ſelf-evident truth, without which all reaſoning on political liberty is *certâ ratione inſanire*. That a free people cannot have their property, or any part of it, given and granted away in aids and ſubſidies, but by their own conſent; ſignified by them-

ſelves or their legal repreſentatives. It is alſo (as hath been marked before) an undoubted principle and law of our conſtitution, that the whole body of the realm, and every particular member thereof, either in perſon, or by repreſentation, (upon their own free elections) are deemed to be perſonally preſent in the high court of parliament: And, that the King, Lords and Commons aſſembled in parliament, are the commune concilium, the common-council of the realm;——the legal and conſtitutional repreſentative of the whole body of the realm, and of every particular member thereof: having perfect right, and full power and authority to make laws and ſtatutes of ſufficient force and validity to bind the Colonies and people of America, ſubjects of the crown, in all caſes whatſoever.——But as various external acquiſitions and dominions, may accede to this body, ſtill remaining without the realm, out of its juriſdiction; not yet annexed, united and incorporated with the realm:—As various and divers new intereſted individuals, may ariſe and increaſe within the realm; which, although *conſtitutionally repreſented* in parliament, cannot be ſaid to have there *actually* repreſentatives of their own free election.—Let us look and ſee how government, to be con-

conſiſtent with itſelf and its own principles, hath acted in ſuch caſes.

Parliament hath never ceaſed to be deemed the conſtitutional repreſentative of the whole dominions of the realm: Hath never ceaſed to act as the commune concilium, both in the caſe of making laws, which did bind theſe ſubjects under this predicament; as alſo, in the caſe de auxilio aſſidendo; and render'd them liable to all rates, payments and ſubſidies granted by parliament: Yet on the other hand, parliament (theſe ſubjects being equally concerned to have repreſentatives in parliament, of their own election, equally as other inhabitants of the realm) hath always given them power to ſend ſuch; as they have ariſen to an importance and a ſhare of intereſt in the ſtate, which could juſtify the meaſure. On this principle, and by this proceeding, has the number of repreſentatives in parliament, increaſed from between two and three hundred, to above five hundred.

In other caſes, as in the caſe of the American Colonies, where theſe acquiſitions in partibus exteris, have been deemed ſo far ſeparate from the kingdom; ſo remote from the realm, and the juriſdiction thereof; that they could not have been incorporated

into any county, city or borough within the realm; that the ſtate and condition of their country could ſcarcely be ſaid to be within the actual cognizance of parliament: Where the local internal circumſtances of their property could ſcarce fall within the ways and means adopted by parliament for taxes;—where the peculiar nature of their eſtabliſhment required the conſtant and immediate preſence of ſome power to make orders, ordinances and laws for the preſervation and well government of thoſe countries: There government hath conſtantly and uniformly eſtabliſhed and admitted the governor, council and repreſentatives of the freeholders of the country aſſembled, to be a full and perfect legiſlature, for the making laws and impoſing taxes in all caſes whatſoever, ariſing within, and reſpecting the body of that community;—full and perfect within itſelf, to all the purpoſes of free debate, free will, and freedom of enacting;——although ſubordinate to the government of the mother, as being bound by its laws, and not capable to act, or to become any thing contrary or repugnant to it. Although parliament hath, in ſome caſes, as before recited, impoſed taxes, ariſing from cuſtoms and duties, paid by the trade and intercourſe of the inhabitants of the Colonies: Yet, from the firſt moment that they have been conſidered as

capable

capable of paying a certain quota to the extraordinary ſervices of government, and as being in circumſtances proper to be required ſo to do;——government fixed the mode, and hath hitherto invariably continued in the ſame, of doing this by requiſition from the crown, to be laid before the aſſembly by his Majeſty's commiſſioner the governor.——

If it be the ſpirit and ſenſe of government, to conſider theſe Colonies ſtill as thus ſeparate unannexed parts; as incapable, from their local circumſtances, of having repreſentatives of their own election, in the Britiſh parliament;—the ſame ſenſe and ſpirit will, I ſuppoſe, continue to the Colonies this liberty *; " which, through a tender-
" neſs in the legiſlature of Great Britain, to
" the rights and privileges of the ſubjects
" in the Colonies, they have hitherto al-
" way enjoyed; the liberty of judging, by
" their repreſentatives, both of the way and
" manner in which internal taxes ſhould be
" raiſed within the reſpective governments,
" and of the ability of the inhabitants to pay
" them:" will think it wiſe, if not juſt alſo, from its having become, I had almoſt ſaid, a conſtitutional mode of adminiſtration,

* Petition of the general aſſembly of the Maſſachuſett's-bay.

through the eſtabliſhment and invaried continuance of the precedent, to raiſe the Provincial quota of taxes, by making, in each caſe, a requiſition to the aſſemblies, to grant ſubſidies, adequate to the ſervice of government, and in proportion to the circumſtances of the Colony or province which they repreſent.

This is the alternative, either to follow the ſober temper and prudence of this eſtabliſhed mode, or to adopt the wiſdom, juſtice and policy of the reaſoning and acts of parliament, in the caſes of Cheſter, Wales and Durham. There is no other practicable or rational meaſure.

If theſe external circumſtances of our American dominions, and the internal circumſtances of our police and parties, lead adminiſtration to this meaſure, of continuing to derive aids and ſubſidies from the Colonies by the eſtabliſhment of general aſſemblies of the ſtates in each Colony, upon the preciſe model of the parliament in the mother country: It may be very well juſtified by example, and from precedent, in the government of the Roman Colonies.

Although the Romans governed their provinces by an abſolute imperium, which ſuperceded all civil government, properly ſo

called; yet the inhabitants of their *Colonies* were, in their civil conſtitution *, divided into Senate and People, exactly according to the conſtitution of the city itſelf: And conform exactly to the model of the ſovereign ſenate. As the order of the patres conſcripti were the conſtituents of that body,—ſo the order of the decuriones, the tenth part from amongſt the people were, for the purpoſe of forming a like council, enrolled by the triumvirs whom the Roman ſtate had created, to lead out Colonies either of Citizens or Latins.—By this eſtabliſhment, a ſenate, for this council is literally ſo called in the Pompeian law de Bithynis, was formed in every Colony—and latterly, in every municipal corporation alſo.—

As the ordinary ſupply of the ſenate in the city, was from the annual election of magi-

* Conſtituendum eſt ad urbis inſtar, in Coloniis Plebem a Patribus diſcriminatum; & ad exemplum Senatus ampliſſimi ordinis, decurionum ordinem (quem et Senatum dictum in Pompeia lege de Bithyniis Plinius ſcribit) in civitatibus orbis Romani ex decimâ parte Colonorum, concilii publici gratiâ, conſcribi ſolitum fuiſſe a triumviris quos S P Q R creabat ad Colonias aut latinorum aut civium ducendas; cumque in Coloniis veluti in ſpeculo effigies Repub. Rom. cerneretur ſimulachrum quoddam Senatûs in illis, & demum in municipiis ex decurionum ordine fuit.
Marcus Vetranius Maurus de jure liberorum. Cap. 8.

ſtrates,

ſtrates, who, in conſequence of their having been inveſted with ſuch magiſtracy, acquired a ſeat there; as the extraordinary ſupply of ſenators, was by Kings, Conſuls, Cenſors, or Dictators (according to the different times and periods of the Roman government) propoſing good and true citizens to the people,—of whom thoſe, who were approved, were enrolled Conſcripti, Senatores, juſſu populi: So the ordinary ſupply of the members of this Colony ſenate or curia was from the decuriones, the magiſtracy of that community,—while the extraordinary ſupply was by the triumvirs enrolling, in like manner, the ſenator at the firſt eſtabliſhment, or the ‡ governors, upon extraordinary caſes, which might afterwards ariſe,——propoſing honeſt and honourable men, from whom the people choſe thoſe who were enrolled.—Both council and reſult were left to the community.——The council in the ſenate, the reſult in the people;—who made, and were governed by their own laws, ſubordinate to the laws of the empire; who created, and were governed by their own magiſtrates.—

When this iſland was itſelf, in a provincial ſtate, under the empire of Rome, ſeve-

‡ Vide Plinii Epiſt. et Trajani Reſp. lib. x. Epis. 80 and 81.

ral

ral Colonies and municipal diſtricts within the ſame, were happy under this very conſtitution of being governed by a repreſentative, magiſtracy, and legiſlature,—which the Britiſh Colonies now contend for. The manuſcript of Richard of Cirenceſter, lately diſcovered, tells us which they were.—— The Colonies were, London, Colcheſter, Sandwich with Richborough, Bath, Caërleon in Wales, Weſt Cheſter, Glouceſter, Lincoln and Cheſterford. The municipal diſtricts, York and St. Albans. To which perhaps we may add, from the ſame liſt, as Civitates, Latio jure donatæ, Old Sarum, Cirenceſter, Carliſle, Burton north of Lancaſter, Caſter by Peterborough, Alkmanbury and Catteric in Yorkſhire, Perth, Dunbritton and Inverneſs.

If this mode of adminiſtration for the Colonies be adopted by government, eſpecially in the article of taxation—It will behove adminiſtration, to be thoroughly informed of, and acquainted with the circumſtances of the Colonies, as to the quota or ſhare of the taxes which they are capable to bear, and ought to raiſe, not only in proportion to thoſe raiſed by the mother country, but amongſt themſelves: It will become the duty of miniſtry, to endeavour to perſuade the Colonies to eſtabliſh, *as far as their circumſtances will*

will admit of it, the ſame mode of taxation, by ſtamp duties, exciſes and land tax, as is uſed in this country:—That the property and manufactures of the Colonies may not, by an exemption from theſe, have a preference and advantage over the property and manufactures of the mother country. It will require all the wiſdom and intereſt, all the firmneſs and addreſs, of a thoroughly eſtabliſhed miniſtry, to carry theſe points:—As the Colonies, no doubt, will keep off ſuch incumbrances as long as they can; and as the aſſemblies of the Colonies, will, under this conſtitution, reaſonably argue, that as to the matter, extent, mode and time of taxes, they, the repreſentative of the people for whom they grant, are the only proper and conſtitutional judges.

Government ought at all times to know the numbers of the inhabitants, diſtinguiſhing the number of the rateable polls.

2. The number of acres in each province or Colony, both cultivated and lyeing in waſte.——The number of houſes—and farms, &c.

3. The numbers and quantity of every other article of rateable property, according to the method uſed by the provinces themſelves, in rateing eſtates, real and perſonal.

4. Go-

4. Government ought alway to know what the annual amount of the ſeveral province taxes are, and by what rates they are raiſed, and by what eſtimate theſe rates are laid.

From whence, by comparing the eſtimation with the real value, for the time being, of each article, they may alway collect nearly the real value of the property of ſuch province or Colony. All which, compared with the prices of labour, proviſions and European goods imported, with the value of their manufactures, the intereſt of money, and their exports, will fully and preciſely mark their abilities to bear, and the proportion which they ſhould bear, of taxes, amongſt one another, and with the mother country.

The following eſtimates of the provinces, Maſſachuſett's-Bay to the northward, of South-Carolina to the ſouthward, and of New Jerſey in the center, are founded in the tax-liſts of each province; which tax-liſts, being of * ten years ſtanding, muſt, in encreaſing countries as the Colonies are, fall ſhort of the numbers and quantity which

* That is ten years back from the time of the publication of the firſt edition of this book.

would

would be found on any tax-liſt faithfully made out at this time. The eſtimates which I have made thereon are in general at ſuch an under-valuation, that I ſhould think no man of candour in the provinces will object to them; although they be, in ſome articles, higher than the valuation which the legiſlatures directed ſo long ago to be made, as the fund of the taxes that they order to be levied on them. This valuation of the eſtates, real and perſonal, gives the groſs amount of the principal of the rateable property in the province. I think I may venture to affirm, that no man, who would be thought to underſtand the eſtimation of things, will object that I over-rate the produce of this property, when I rate it at ſix *per cent.* only of this moderate valuation; when he conſiders that money, in none of thoſe provinces, bears leſs than ſix *per cent.* intereſt; and that under loans of money, at five *per cent.* moſt of the beſt improvements of the country have been made.

The valuation of the provinces, New-York and Penſylvania, lying on each ſide of New-Jerſey, are calculated in a different manner, by taking a medium between the ſuppoſed real value and the very loweſt rate of valuation. Without troubling the reader, or encumbering the printer with the detail of

of theſe tax-liſts, and the calculations made thereon, I will inſert only the reſult of them, as follows.

The provinces under-mentioned could annually raiſe, by one ſhilling in the pound on the produce of the rateable property, eſtates real and perſonal in each province:

	£.	s.	d.
Province Maſſachuſett's-Bay,	13172	7	11
New-York, - -	8000	0	0
New-Jerſey, - -	5289	17	0
Penſylvania, - -	15761	10	0
South-Carolina, -	6971	1	11
Sterling, £.	49395	16	10

	£.	s.	d.
Suppoſe now the reſt of the colonies to be no more than able to double this ſum:			
The ſum-total that the colonies will be able to raiſe, according to their old tax-liſts, and their own mode of valuation and of rating the produce of eſtates, real and perſonal, will be, at one ſhilling in the pound on the produce, *per annum.* - -	98791	13	8

In

In juſtice to the reſt of the provinces, particularized above, I ought to obſerve that, by the equalleſt judgment which I can form, I think that the province of South-Carolina is the moſt under-rated.

I ſhould alſo point out to the American reader, that, as the calculations and liſts above referred to, are taken from the private collections of the writer of theſe papers, without any official communication of ſuch papers as miniſtry may be poſſeſſed of, I deſire him to give no other credit to them, than ſuch as, by referring to his own knowledge of the ſtate of things in the Colonies, he finds to be juſt and near the truth. I ſhould, on the other hand, inform the Engliſh reader, that theſe were collected on the ſpot, and communicated by perſons leading, and thoroughly converſant in the buſineſs of their reſpective provinces.

Another remark is neceſſary, That, except what relates to Penſylvania, theſe collections were made nine years ago; ſo that, wherever any difference may ariſe, from the different proportion in which theſe provinces have encreaſed, that ought to be carried to account; at the ſame time, that a certain addition may be made to the whole from the certain encreaſe of all of them.

If

If this moderate tax, raiſed by the above moderate valuation, be compared with the internal annual charge of government in the reſpective provinces, that charge will be found much below the ſupplies of this fund. The whole charge of the ordinary expence of government in the province of Maſſachuſett's-Bay, which does, by much, more to the ſupport of government, and other public ſervices than any other province, is, in time of peace, ſterling 12937 *l.* 10 *s.* whereas that of New-York is not more than about, ſterling, 4000 *l.* annually.

When theſe points ſhall be ſettled, there cannot be a doubt but that the ſame zealous attention, which all parties ſee and confeſs to be applied in the adminiſtration of the Britiſh department to the public revenue, will be applied to the eſtabliſhing and reforming that of America.

A proper knowledge of, and real attention to, the Crown's quit-rents in America, by reviſing the *original defects*, by remedying the almoſt inſurmountable difficulties that the due collection of them is attended with, may render that branch a real and effective revenue, which at the ſame time will be found to be no inconſiderable one.

By proper regulations for ſecuring the Crown's rights in waifs and wrecks, in fines and forfeitures, and by proper appropriations of the ſame, that branch of revenue may be made effective: But, whenever it is taken up in earneſt, whenever it ſhall be reſolved upon to give a real official regard to the revenue in America, the office of *Auditor General of the Plantations* muſt ceaſe to be a mere ſinecure benefice, and be really and effectively eſtabliſhed with ſuch powers as will carry the duty of it into execution, yet under ſuch cautions and reſtrictions as ſhall ſecure the benefit of its ſervice to the uſe of the crown.

If it ſhould be thought difficult and hazardous, to extend the legiſlative rights, privileges and preeminences, the true Imperium of government, to whereſoever the dominions of the ſtate extend,—the adminiſtration muſt be content to go on in this ptolomaïc ſyſtem of policy,—as long as the various centers and ſyſtems ſhall preſerve their due order and ſubordination: Or to ſpeak in a more appoſite idea;—if we would keep the baſis of this realm confined to this iſland, while we extend the ſuperſtructure, by extending our dominions: We ſhall invert the pyramid (as Sir William Temple expreſſes it) and muſt in time ſubvert the

the government itſelf. If we chuſe to follow the example of the Romans, we muſt expect to follow their fate.

Would ſtateſmen, on the other hand, doubt for a while, the predetermined modes which artificial ſyſtems preſcribe; would they dare to look for truth in the nature of things; they would ſoon adopt what is right, as founded upon fact.——They would be naturally led into the true ſyſtem of government, by following *with the powers of the ſtate*, where the actual and *real powers of the ſyſtem of things* lead to. They would ſee, that by the various and mutual interconnections of the different parts of the Britiſh dominions, throughout the Atlantic, and in America; by the intercommunion and reciprocation of their alternate wants and ſupplies; by the combination and ſubordination of their ſeveral intereſts and powers; by the circulation of their commerce, revolving in an orbit which hath Great Britain for its center: That there does exiſt, in fact, in nature, a real union and incorporation of all theſe parts of the Britiſh dominions, *an actual ſyſtem of dominion*; which wants only to be avowed and actuated by the real ſpirit in which it moves and has its being: By that ſpirit, which is the genuine ſpirit of the Britiſh conſtitution: By that ſpirit from

which the Britiſh government hath ariſen to what it is: By the ſpirit of extending the baſis of its repreſentative legiſlature, through all the parts to whereſoever the rights, intereſt or power of its dominions extend; ſo as to form (I cannot too often inculcate the idea) A GRAND MARINE DOMINION, CONSISTING OF OUR POSSESSIONS IN THE ATLANTIC, AND IN AMERICA, UNITED INTO A ONE EMPIRE, IN A ONE CENTER, WHERE THE SEAT OF GOVERNMENT IS.

This meaſure has been, and I dare ſay will be generally treated as impracticable and viſionary *. I wiſh thoſe declarations of power, with which we mock ourſelves, may not be found the more dangerous deluſion. Such is the actual ſtate of the really exiſting ſyſtem of our dominions; that neither the power of government, over theſe various parts, can long continue under the preſent mode of adminiſtration; nor the great intereſt of commerce extended thro'-out the whole, long ſubſiſt under the preſent ſyſtem of the laws of trade: Power,

* On repealing the ſtamp-act, an act paſs'd, declaring the power of parliament to bind theſe Colonies in all caſes whatſoever: This, however, was only planting a barren tree, that caſt a *ſhade* indeed over the Colonies, but yielded *no fruit*. Penſylvania Farmer's Letters, Letter 10th.

when uſed towards them, becoming ſelf-deſtructive, will only haſten the general ruin.

To this meaſure, not only the Briton but the American alſo *now* objects, that it is unneceſſary, inexpedient and dangerous: But let us conſider their ſeveral objections.

The Briton ſays that ſuch meaſure is unneceſſary, becauſe the power of parliament extends to all caſes and purpoſes required.—Be it allowed, that this power does, in right and theory, thus extend: Yet ſurely the reaſoning, the precedents, the Examples, and the practice of adminiſtrations do ſhow, that ſomething more is neceſſary in this caſe.

The American ſays it is unneceſſary, becauſe they have legiſlatures of their own, which anſwer all their purpoſes.——But each Colony having rights, duties, actions, relations, which extend beyond the bounds and juriſdiction of their reſpective communities; beyond the power of their reſpective governments: The colonial legiſlature does certainly not anſwer all purpoſes; is incompetent and inadequate to many purpoſes: Something therefore more is neceſſary, *either a common union amongſt themſelves*; or a one common union of ſubordination, under the one general legiſlature of the ſtate.

The Briton ſays that it would be inexpedient to participate with, and communicate to the Coloniſts, the rights and privileges of a ſubject living and holding his property within the realm; to give theſe rights to people living out of the realm, and remote from it, whoſe intereſts are rival and contrary, both in trade and dominion, to thoſe of this realm. But the ſcheme of giving repreſentatives to the Colonies, annexes them to, and incorporates them with the realm. Their intereſt is contrary to that of Great Britain, only ſo long as they are continued in the *unnatural artificial* ſtate of being conſidered *as external provinces*; and they can become rivals only by continuing to increaſe in this ſeparate ſtate: But their being united to the realm, is the very remedy propoſed.

The American ſays, that this meaſure is inexpedient; becauſe, if the Colonies be united to the realm; and have participation in the legiſlature, and communication of the rights and privileges of a ſubject within the realm: They muſt be aſſociated in the burden of the taxes, and ſo pay a ſhare of the intereſt and principal of the national debts, which they have no concern in.——This is literally the objection which was made by the Scots, at the propoſal of the union of the two kingdoms; and came indeed with

reaſon

reaſon and propriety, from an independent ſovereign kingdom, which had no concern in the debts of England. But the like objection can never be made with propriety, reaſon or juſtice, by Colonies and provinces which are conſtituent parts of a trading nation, protected by the Britiſh marine. Much leſs can it be ſaid, that they have no concern in theſe debts, when they are debts contracted, by wars entered into, the firſt for the preſervation of the proteſtant intereſt and independency of the ſovereignty of the mother country; the two latter, ſolely in defence, and for the protection of the trade and actual exiſtence of the Colonies. However, if the Colonies could, on any reaſonable grounds of equity or policy, ſhow any inequality, or even inexpediency in their paying any part of the taxes, which have a retroſpect to times, before they were admitted to a ſhare in the legiſlature.—There is no doubt but that the ſame moderation and juſtice which the kingdom of England ſhowed towards Scotland, in giving that *an equivalent*, would be extended to the Colonies, by the kingdom of Great Britain. And I cannot but think, that it would not be more than ſuch equivalent, that the government ſhould grant them a ſum of money ſufficient to pay off all their debts, which were contracted, in conſequence of

the laſt war, and were ſtill out-ſtanding; unleſs Great Britain engaged from henceforth to conſider theſe as the debts of the ſtate in general. I cannot but think that it would not be more than ſuch equivalent, that the crown ſhould give up all its right to quit rents; and that every act, whereby any ſpecial revenue was raiſed upon the Colonies, ſhould be repealed.

The Briton ſays, that this meaſure would be *dangerous*; as it might prove a leading ſtep, to the finally removing of the ſeat of Empire to America.——To which the true anſwer is, that the removing of the Seat of the Empire to America or not, depends on the progreſſive encreaſe of the territories, trade and power of the American Colonies; if continued in the ſame unnatural ſeparate rival and dangerous ſtate, in which they are at preſent.—That this is an event not to be avoided.—But this meaſure of uniting the Colonies to the realm, and of fixing the legiſlature here in Britain, is the only policy that can obviate and prevent this removal. For, by concentring the intereſt and power of the ſeveral parts in this iſland, the Empire muſt be fixed here alſo.—But if this removal cannot finally be prevented,—is it better that a new Empire ſhould ariſe in America, on the ruins of Great Britain; or

that

that the regalia of the Britiſh Empire extending to America, ſhould be removed only to ſome other part of the dominions, continuing however in the ſame realm?

The American ſays, that this meaſure might be dangerous to their liberties; as this calling the American repreſentatives to a parliament, ſitting in Great Britain, would remove their repreſentatives at too great a diſtance from their conſtituents, for too long a time; and conſequently from that communication and influence, which their conſtituents ſhould have with them; and therefore transfer the will of the Colonies out of their own power, involving it, at the ſame time, in a majority, againſt which their proportion of repreſentatives would hold no ballance. This objection, if it hath any ground for its fears, is a direct anſwer to the Britiſh objection laſt mentioned:—But it proves too much; as, according to this argument, no remote parts of a ſtate ought to ſend repreſentatives, as the ſeat of Empire is alſo remote; the truth and fact is, that the mutual ſituation of Great Britain and America, very well allows every communication, which a member of parliament ought to have with his conſtituents; and any influence beyond that, is unparliamentary and unconſtitutional.

As

As to all objections which ariſe from apprehenſions of what effect ſuch an additional number of members, acceding all at once to the Houſe of Commons, might have on the politics, conduct and internal management of that body.—They ariſe from an unwarranted and (one ſhould hope) groundleſs ſuſpicion of ſome undue influence operating there.—But ſhould this be a ſuppoſition, that could ever be admitted to be true, even amongſt the fœces Romuli; the contrary apprehenſions, from the different quarters, are ſuch as mutually deſtroy each other.—The Americans fear, that the number of repreſentatives which will be allowed to them, will have no power proportionable to their ſhare of intereſt in the community. That this union to the Britiſh legiſlature, will only involve them in the concluſions of a majority, which will thence claim a right to tax them, and to reſtrain their trade, manufactures and ſettlements as they pleaſe. The Briton fears, that theſe repreſentatives may be an united phalanx, firmly oppoſing every tax propoſed to be laid upon the Colonies; and every regulation meant to keep their actions and intereſt in due ſubordination to the whole.——That they will be a party, a faction, a flying ſquadron, alway ready, and in moſt caſes capable, by uniting with oppoſition to adminiſtration, or with com-

commercical factions, to diſtreſs government and the landed intereſt of the kingdom. The Americans again on the other hand, fear that ſome future Britiſh miniſtry, in ſome future days of corruption, will ſucceed in bribing their repreſentatives, againſt which the Colonies will have no remedy, but muſt ſubmit to the betraying conſequences.—— Theſe are objections which, on the very ſuppoſition, mutually counteract and deſtroy one another.—They are objections which have had fair trial upon experience, in the caſe of the Scots members,—and are directly contradicted by truth and fact.

As to all objections raiſed on the ſuppoſed impracticability of the meaſure; they are too contemptible to deſerve an anſwer.—There is but one which hath any ſenſe in it,—it is ſaid, that the Colonies are too remote, upon a diſſolution, to receive the writs and return their repreſentatives within the time limited by law; and that, if the parliament ſhould be aſſembled immediately on its election, the Colonies could not have their repreſentatives in the houſe for ſome time. The portion of time limited by law, is fixed in proportion to the diſtance of the remoteſt parts concerned at preſent, to ſend members to parliament. A ſpecial time might be

be fixed by law, in proportion to the ſpecial caſe of the diſtance of the Colonies. And as to their having their repreſentatives in a new parliament, upon its being aſſembled immediately; in the ſame manner, as upon the demiſe of the King, the parliament, then ſitting, is by law, to continue ſix months, unleſs diſſolved by the ſucceſſor: ſo the old repreſentatives of the Colonies, might by law, be permitted to ſit in the new parliament, if aſſembled within ſix months; until they were reelected or others ſent in their room; the doing of which, might be limited to ſix months.

Notwithſtanding, I know that this propoſal will be conſidered as utopian, viſionary, idle, impertinent and what not:—I will proceed to conſider the juſtice and policy of this meaſure, of this invariable truth, this unavoidable conſequence; that in the courſe and procedure of our government, there muſt ariſe a duty in government to give, a right in the Colonies to claim, a ſhare in the legiſlature of Great Britain.

While we conſider the realm, the government of Great Britain, as the *Sovereign*, and the Colonies as the ſubject, without full participation in the conſtitution; without participation in the legiſlature; bound implicitly

citly to obey the orders of government; and implicitly to *enact or regiſter* as an act of their own, thoſe grants which we have by our acts required them to make, as a tax impoſed on them: They ſay that their obedience in this caſe, without the interpoſition of their own free will, is reduced to the loweſt predicament of ſubjection, wherein they are not only required to *act*, but to *will*, as they are ordered. Yet, however too ſtrongly they may be ſuppoſed to ſtate their caſe, ſurely there is a ſpecies of injuſtice in it.

Supplies granted in parliament, are of good will, not of duty, the free and voluntary act of the giver, not obligations and ſervices which the giver cannot, by right, refuſe. Whatever therefore is given out of the lands and property of the Colonies, ſhould ſome way or other, be made their own act.

The true grounds of juſtice whereby the parliament grants ſupplies, and raiſes them by taxes on the lands and property of themſelves and their conſtituents, is, that they give what is their own; that they lay no tax, which does not affect themſelves and their conſtituents; and are therefore not only the proper givers, but alſo, the beſt and ſafeſt

judges,

judges, what burdens they are beſt able to bear: They do not give and grant from the property of others, to eaſe themſelves. Let the ſtateſman apply this reaſoning to the caſe of the Colonies, and he may be lead up to the true ſources of the diſcontents, murmurings, proteſts and counteractings againſt government, which divert its effect, which undermine its eſtabliſhment, and tend to its utter diſſolution.

Whereas on the other hand, we ſhall find, as hath ever been found, that univerſal participation of council, creates reciprocation of univerſal obedience. The ſeat of government will be well informed of the ſtate and condition of the remote and extreme parts: And the extreme and remote parts, by participation in the legiſlature, will, from ſelf-conſciouſneſs, be informed of, and ſatisfied in, the reaſons and neceſſity of the meaſures of government: Theſe parts will conſider themſelves as acting, in every grant which is made, and in every tax which is impoſed: This conſideration alone, will give efficiency to government; and will create that *conſenſus obedientium*, on which only, the power and ſyſtem of the Imperium of a ſtate can be founded: This will give extention and ſtability of Empire, as far as we can extend our dominions.

I could

I could here proceed to juſtify this propoſition, as founded in fact, by ſhowing, that *this principle of eſtabliſhing the Imperium of government, on the baſis of a repreſentative legiſlature*, hath been, from the earlieſt and * firſt inſtance of the eſtabliſhment of a BRITISH SENATE, under the government of Carauſius, founded on its native and natural baſis, a marine dominion, invariably through all times, *the ſpirit of this country*: The ſpirit of that conſtitution, by which government hath been alway the moſt ſurely and happily eſtabliſhed in the Britiſh dominions. It is a native plant of this ſoil, which, although at various times, it hath been trodden and cut down, almoſt to the very roots, hath alway again broken forth with a vigour ſuperior to all falſe culture and all force. Although it was ſuppreſſed for a while, under the laſt deſpairing efforts of the Roman corrupted ſtate; yet having taken root, it revived: Although it was, in part, oppreſſed by the feudal ſyſtem, in the latter times of the Saxons, as well as under the Normans; yet I could here ſhow, not only how, by its native vigour, it roſe again from ruin, but alſo mark the progreſs of its reſtoration, to the time of Henry the third.

* Anno Dom. 291.

But

But theſe are arguments only to thoſe who feel their hearts united to this ſpirit, who revere the inſtitutions of their anceſtors, as the true ſources of the original liberty, and political happineſs of this country. In theſe days, when it is the wiſdom of ſtateſmen to raiſe objections to this ſpirit of policy; when the learned fortify their underſtanding againſt conviction of the right of it; when the love of liberty, nay, the very mention of ſuch a feeling is become ridiculous, ſuch arguments muſt of courſe become ridiculous alſo.

It would be a melancholy, and but an uſeleſs conſideration, to look back to that ſtate of political liberty, on which the Britiſh Empire hath extended itſelf; or to look forward to that ſtate of political glory, liberty and happineſs on which it might be extended and eſtabliſhed. When we find bounds ſet to the principle of this ſpirit; thus far ſhalt thou extend and no further: When we ſee a ſyſtem of policy adopted, under which this country muſt continue for a while, entangled in a ſeries of hoſtile diſputes with its Colonies, but muſt at length loſe them; muſt be finally broken in its commercical intereſt and power, and ſink by the ſame pride, and ſame errors, into the ſame inſignificance and dependence, as all

other

other commercial ſtates have done, one after another; one has only left to hope, that the ruin is not inevitable, and that heaven may avert it.

I decus: I noſtrum: melioribus utere fatis.

Let us here cloſe this view, and let us return to the examination of matters, which form the internal adminiſtration of the Colonies. And firſt their money.

The Britiſh American Colonies have not, within themſelves, the means of making money or coin. They cannot acquire it from Great Britain, the balance of trade being againſt them. The returns of thoſe branches of commerce, in which they are permitted to trade to any other part of Europe, are but barely ſufficient to pay this balance.— By the preſent act of navigation, they are prohibited from trading with the Colonies of any other nations, ſo that there remains nothing but a ſmall branch of African trade, and the ſcrambling profits of an undeſcribed traffic, to ſupply them with ſilver. However, the fact is, and matters have been ſo managed, that the general currency of the Colonies uſed to be in Spaniſh and Portugueſe coin. This ſupplied the internal cir-

culation of their home buſineſs, and always finally came to England in payments for what the Coloniſts exported from thence. If the act of navigation ſhould be carried into ſuch rigorous execution as to cut off this ſupply of a ſilver currency to the Colonies, the thoughts of adminiſtration ſhould be turned to the deviſing ſome means of ſupplying the Colonies with money of ſome ſort or other: and in this view, it may not be improper to take up here the conſideration of ſome general principles, on which the buſineſs of money and a currency depends.

SILVER, *by the general conſent of mankind, has become a* DEPOSITE, *which is,* THE COMMON MEASURE *of commerce.* This is a general effect of ſome general cauſe. The experience of its degree of ſcarceneſs compared with its common introduction amidſt men, together with the facility of its being known by its viſible and palpable properties, hath given this effect: Its degree of ſcarceneſs hath given it a value proportioned to the making it a DEPOSITE, and the certain quantity in which this is mixed with the poſſeſſions and tranſactions of man, together with the facility of its being known, makes it a COMMON MEASURE amongſt thoſe things. There are perhaps other things which might be better applied to commerce as a common mea-

measure, and there are perhaps other things which might better answer as a depoſite; but there is nothing except ſilver known and acknowledged by the general experience of mankind, which is a depoſite and common meaſure of commerce. Paper, leather, or parchment, may, by the ſanction of government, become a common meaſure to an extent beyond what ſilver could reach; yet all the ſanction and power of government never will make it an adequate depoſite. Diamonds, pearls, or other jewels, may in many caſes be conſidered as a more apt and ſuitable depoſite, and may be applied as ſuch, to an extent to which ſilver will not reach; yet their ſcarcity tends to throw them into a monopoly; they cannot be ſubdivided, nor amaſſed into one concrete, and the knowledge of them is more calculated for a myſtery or trade, than for the forenſic uſes of man in common, and they will never therefore become a common meaſure.

This truth eſtabliſhed and rightly underſtood, it will be ſeen that that ſtate of trade in the Colonies is the beſt, and that adminiſtration of the Colonies the wiſeſt, which tends to introduce this only true and real currency amongſt them. And in this view I muſt wiſh to ſee the Spaniſh ſilver flowing into our Colonies, with an ample and unin-

terrupted ſtream, as I know that that ſtream, after it hath watered and ſupplyed the regions which it paſſeth through, muſt, like every other ſtream, pay its tribute to its mother ocean: As this ſilver, to ſpeak without a metaphor, after it hath paſſed through the various uſes of it in the Colonies, doth always come to, and center finally in Great Britain.

The proportion of this meaſure, by the general application of it to ſeveral different commodities, in different places and circumſtances, forms *its own ſcale*. This ſcale ariſes from the effect of natural operations, and not from *artificial impoſition*: If therefore ſilver was never uſed but by the merchant, as the general meaſure of his commerce and exchange, coin would be (as it is in ſuch caſe) of no uſe; it would be conſidered as bullion only. Although bullion is thus ſufficient for the meaſure of general commerce, yet for the daily uſes of the market ſomething more is wanted in the detail; ſomething is wanted to mark to common judgment its proportion, and to give the ſcale: Government therefore, here interpoſes, and by forming it into COIN *gives the ſcale*, and makes it become to forenſic uſe AN INSTRUMENT in detail, as well as it is in bullion a MEASURE in general.

This

This *artificial marking* of this ſcale on a *natural meaſure*, is neither more nor leſs than marking on any other rule or meaſure, the graduate proportions of it: And this artificial marking of the ſcale, or graduating the meaſure is of no uſe but in detail, and extends not beyond the market;——for exchange reſtores it again in commerce. No artificial ſtandard therefore can be impoſed.

Having this idea of money and coin, I could never comprehend to what general uſes, or to what purpoſes of government, the proclamation which Queen Ann iſſued, and which was confirmed by ſtatute in the ſixth year of her reign, could be ſuppoſed to extend, while it endeavoured to rate the foreign coins current in the Colonies by an artificial ſtandard. It would ſeem to me juſt as wiſe, and anſwering to juſt as good purpoſe, if government ſhould now iſſue a proclamation, directing, that for the future, all black horſes in the Colonies ſhould be called white, and all brindled cows called red. The making even a law to alter the names of things, will never alter the nature of thoſe things; and will never have any other effect, than that of introducing confuſion, and of giving an opportunity to bad men of profiting by that confuſion.

The ſafeſt and wiſeſt meaſure which government can take, is not to diſcourage or obſtruct that channel through which ſilver flows into the Colonies,—nor to interfere with that value which it acquires there ;—but only ſo to regulate the Colony trade, that that ſilver ſhall finally come to, and center in Great Britain, whither it will moſt certainly come in its true value ;——but if through any fatality in things or meaſures, a medium of trade, a currency of money, ſhould grow defective in the Colonies, the wiſdom of government will then interpoſe, either to remedy the cauſe which occaſions ſuch defect, or to contrive the means of ſupplying the deficiency. The remedy lies in a certain addreſs in carrying into execution the act of navigation ;——but if that remedy is neglected, the next recourſe muſt lie in ſome means of maintaining a currency ſpecially appropriated to the Colonies, and muſt be partly ſuch as will keep a certain quantity of ſilver coin in circulation there,—and partly ſuch as ſhall eſtabliſh *a paper currency*, holding a value nearly equal to ſilver.

On the firſt view of theſe reſources, it will be matter of ſerious conſideration, whether government ſhould eſtabliſh a mint and coinage ſpecially appropriated for the uſe of the

the Colonies; and on what baſis this ſhould be eſtabliſhed. If it be neceſſary that ſilver, which in bullion is a common meaſure of general commerce, ſhould, that it may be inſtrumental alſo to the common uſes of the market, be formed into coin, it ſhould be ſo formed, that while it was the duty of the public to form this coin, it may not be the intereſt of the individual to melt it down again into bullion.

If a certain quantity of coin is neceſſary for the forenſic uſes of the Colonies, it ſhould be ſo formed as *in no ordinary courſe* of buſineſs to become the intereſt of the merchant to export it from thence.

This coin ſhould be graduated by alloy, ſomewhat below the real ſcale, ſo as to bear a value in tale, ſomewhat better than the ſilver it contains would fetch after the expence of melting down the coin into bullion,— ſomewhat better *as an inſtrument*, in common forenſic uſe, than the merchant *in ordinary caſes* could make of it, in applying it *as a meaſure* by exporting it.

I have here inſerted the caution againſt ordinary caſes only, as I am not unaware that the lowering the intrinſic worth of the coin for America, will have in the end no other

 effect,

effect, than to raiſe the price of the European goods carried thither, while the coin will be exported to Great Britain the ſame as if it were pure ſilver.

If ſuch a neceſſity of an artificial currency ſhould ever exiſt in the Colonies, and if ſuch a coinage was eſtabliſhed, the Coloniſts would, for the purpoſes of their forenſic buſineſs, purchaſe *this inſtrument* either in gold or ſilver, in the ſame manner as they do now purchaſe copper coin for the ſame purpoſes.

There are two ideas of *a paper currency.* The one adopts a meaſure for eſtabliſhing a bank in the Colonies, which is quite a new and untried meaſure; the other turns the view to the regulating the preſent paper money currency, which the Colonies have had experience of in all its deviations, and to the eſtabliſhing the ſame on a ſure and ſufficient baſis.

I have ſeen this plan for *a provincial bank*, and think it juſtice to the very knowing perſon who formed it, to ſay, that it muſt be becauſe I do not underſtand it, that many objections ariſe in my mind to it. Whenever he ſhall think fit to produce it, it will come forth clear of all objections, with that force

force of conviction with which truth always flows from a mind in full and perfect poſſeſſion of it.

In the mean while, I will recommend to the conſideration of thoſe who take a lead in buſineſs, a meaſure deviſed and adminiſtered by an American aſſembly.—And I will venture to ſay, that there never was a wiſer or a better meaſure, never one better calculated to ſerve the uſes of an encreaſing country, that there never was a meaſure more ſteadily purſued, or more faithfully executed, for forty years together, than the loan-office in Penſylvania, formed and adminiſtered by the aſſembly of that province.

An encreaſing country of ſettlers and traders muſt alway have the balance of trade againſt them, for this very reaſon, becauſe they are encreaſing and improving, becauſe they muſt be continually wanting further ſupplies which their preſent circumſtances will neither furniſh nor pay for:—And for this very reaſon alſo, they muſt alway labour under a decreaſing ſilver currency, though their circumſtances require an encreaſing one. In the common curſory view of things, our politicians, both theoriſts and practitioners, are apt to think, that a country which has the balance of trade againſt it, and is continually

nually drained of its ſilver currency, muſt be in a declining ſtate; but here we may ſee that the progreſſive improvements of a commercial country of ſettlers, muſt neceſſarily have the balance of trade againſt them, and a decreaſing ſilver currency; that their continual want of money and other materials to carry on their trade and buſineſs muſt engage them in debt——But that thoſe very things applied to their improvements, will in return not only pay thoſe debts, but create alſo a ſurplus to be ſtill carried forward to further and further improvements. In a country under ſuch circumſtances, money lent upon intereſt to ſettlers, creates money. Paper money thus lent upon intereſt will create gold and ſilver in principal, *while the intereſt becomes a revenue that pays the charges of government.* This currency is the true Pactolian ſtream which converts all into gold that is waſhed by it. It is on this principle that the wiſdom and virtue of the aſſembly of Penſylvania eſtabliſhed, under the ſanction of government, an office for the emiſſion of paper money by loan.

A plan of a general paper currency for America, which was intended to have been inſerted in the firſt edition of this work, hath been witheld from publication now four years, for reaſons, which, I was in hopes, might

might have led to more publick benefit, than the making it public in this work could do. I have inſerted it in this edition, but firſt—I proceed to the conſideration of the ordinary mode of making paper-money, by the legiſlatures of the Colonies iſſuing government-notes, payable at a certain period by a tax. It may be uſeful to give ſome deſcription of this, and to point out ſuch regulations as will become neceſſary in this caſe, ſhould the other not be adopted.

This paper-money conſiſts of promiſſory notes, iſſued by the authority of the legiſlature of each province, deriving its value from being payable at a certain period, by monies ariſing from a tax proportioned to that payment at the time fixed. Theſe notes paſs as lawful money, and have been hitherto a legal tender in each reſpective province where they are iſſued.

As any limitation of the USES of theſe notes as a currency, muſt proportionably decreaſe its value; as any inſecurity, inſufficiency, or uncertainty in the FUND, which is to pay off theſe notes, muſt decreaſe their value; as any QUANTITY emitted more than the neceſſities of ſuch province calls for as a medium, muſt alſo decreaſe its value; it is a direct and palpable injuſtice, that

that that medium or currency which has depreciated by any of theſe means from its *real value*, ſhould continue *a legal tender at its nominal value*.

The outrageous abuſes practiſed by ſome of thoſe legiſlatures who have dealt in the manufacture of this depreciating currency, and the great injury which the merchant and fair dealer have ſuffered by this fraudulent medium, occaſioned the interpoſition of parliament to become neceſſary:— Parliament very properly interpoſed, by applying the only adequate and efficient remedy, namely, by prohibiting theſe Colony legiſlatures from being able to make the paper currency *a legal tender*. And government has lately for the ſame prudent reaſons made this prohibition general to the whole of the Colonies. For, *when this paper-money cannot be forced in payment as a legal tender*, this very circumſtance will oblige that legiſlature which creates it, to form it of ſuch internal right conſtitution, as ſhall force its own way by its own intrinſic worth on a level nearly equal to ſilver. The legiſlature muſt ſo frame and regulate it as to give it *a real value*.

Theſe regulations all turn upon *the ſufficiency and certainty of the* FUND, *the extent of*

of the USES, and the proportioning the QUANTITY to the actual and real neceſſities which require ſuch a medium.

The FUND ſhould at leaſt be equal to the payment of the principal *in a limited time*; and that time ſhould be certainly ſo fixed, as that the legiſlature itſelf could not alter it. Where the paper currency is treaſurer's notes given for ſpecie actually lent to government, the fund whereon it is borrowed ſhould be alſo capable of paying, *ad interim*, a certain intereſt, as is the caſe of treaſurer's notes in the province Maſſachuſetts-Bay.

This medium ought to be applicable to all the equitable as well as legal USES of ſilver money within the Colony or province, except that of being a legal tender.

The QUANTITY ought always to be proportioned to the neceſſity of the medium wanted; which (the *fund and uſes* being fairly and abſolutely fixed) may always be judged of by the riſe or fall of the *value* in its general currency or exchange: for where the quantity iſſued is more than neceſſity requires, the value will depreciate: and where the fund is good, and all proper uſes of the medium ſecured, ſo long as no more paper is iſſued than neceſſity does require, it will always

always hold a value near to, though ſomewhat leſs than ſilver. On this ſubject I here refer the reader to the following very judicious tract, written and given to me, ſeveral years ago, by *Tench Francis*, Eſq; late attorney-general of the province of Penſylvania, converſant in theſe matters, both as a lawyer and a merchant. I print and publiſh it by leave of a near relation, and ſubjoin it as containing the moſt exact and deciſive ſentiments on this ſubject that I have any where met with. I entitle it, CONSIDERATIONS ON A PAPER-CURRENCY.

ALL value is given to things for their fitneſs or power to anſwer or procure the neceſſary conveniences or pleaſures of human life.

This value may be conſidered as abſolute or relative. Abſolute value terminates in our eſteem of any thing, without referring to any other; relative is that which it has compared with another. The latter only I ſhall have occaſion to treat of.

Men have power to diſcover qualities in a thing, which ſhall give it value. They can by laws, cuſtoms, or faſhions, greatly in-

creaſe that value; yet, to know or fix its worth or price, compared with other things *à priori*, has always been found beyond their reach and capacity.

This is owing to an inability to foreſee, eſtimate, and govern exactly all the points and circumſtances, on which the value of things turns, which are ſuch as are in, or follow the nature and order of things in general, and then may be foreſeen and judged of with ſome certainty; or which conſiſt of the paſſions, prejudices, and miſapprehenſions of mankind, whoſe number and influences we cannot rate or calculate.

From the *natural* ſtate and order of things, I think it may be affirmed, that the worth or price of any thing will always be, as the quantity and uſes amongſt mankind; as the uſes directly, and as the quantity reciprocally or inverſely. Uſe is the ſole cauſe of value, and value the neceſſary effect of uſe. Abating theſe diſtinctions of cauſe and effect, uſeleſs and worthleſs, are ſynonymous terms. Every man muſt agree, that if you add to a cauſe, you muſt increaſe the effect; ſubſtract from it, and the contrary effect muſt follow. Let the quantity of any thing be as 20, and the uſes as 20, and let it have a value; let the uſes be increaſed to 30, without

in-

inlarging the quantity; it is plain, the equal proportion that every man can enjoy will be as 20 divided by 30, $\frac{2}{3}$ds only. But this being leſs by $\frac{1}{3}$ than each man requires, the demand for it, and conſequently the value muſt riſe. Subſtract 10 from the uſes when 20, and then under an equal diſtribution, each ſhall have double the value he wants, which muſt leſſen the demand, and the value dependent upon it.

Governing the uſes is one of the rational powers, that men have over the value of things.

Experience teaches the meaneſt underſtanding, that price depends on quantity, and that they are to each other inverſely, or the more of one the leſs the other. Water is as neceſſary as any thing, and a diamond perhaps as little; yet the ſuperfluous plenty of one has rendered it of no worth in moſt places, and the ſcarcity of the other has carried it to an extravagant price.

Limiting the quantity is another rational power men have over the value of things; and I do not know a third.

From hence it appears, that increaſing the uſes, and leſſening the quantity, and leſ-

ſening the uſes, and increaſing the quantity, muſt always have the ſame influence upon the rates and prices of things. Therefore, whenever I ſhew the effect of one, for brevity's ſake, let it be underſtood, that I ſuppoſe the ſame conſequence will attend the other reſpectively.

Although I affirm, that variation in quantity or uſe ſhall cauſe a change in the price of a thing, yet I do not ſay, that this change ſhall be in proportion equal to the variation in the quantity or uſe; for I think the contrary. To inſtance in quantity, let it be in any thing as 30, and let the uſe be as 30, and it ſhall then have a mean value. The uſe unchanged, let the quantity be at one time as 20, at another 40. Whoever conſiders the prevalence of men's appetites for a ſcarce commodity, under the dreads and apprehenſions of wanting it, with their different abilities to procure it, on one hand, and their great contempt of uſeleſs exceſs on the other, muſt agree it is more than probable, that the difference between the means and the extremes ſhall not be the ſame in the prices, as in the quantities. Merchants, by experience, have found the truth of what I advance. I think they have obſerved, that leſſening a commodity one third from the mean quantity, *cæteris paribus*, nearly

doubles the value; adding a third, ſubſtracts one half from it; and that by further increaſing or diminiſhing the quantity, theſe diſproportions between the quantity and prices vaſtly increaſe.

It is extremely difficult, if not impoſſible, to inveſtigate theſe proportions mathematically; but events ſpringing from uſe and experience have equal certainty in them, and to all practical purpoſes are as much to be relied and depended upon.

It is further worth obſervation, that whatever fluctuates much in quantity, and conſequently in worth, will ſink beneath its mean value.

Suppoſe the quantity of any thing produced in every 50 years be exactly the ſame: let the annual product be as *one* anſwerable to the neceſſities of mankind, then the value in each year ſhall be as one, and the whole equal to 50. But if the quantity of the annual product fluctuates, there will be annual fluctuations in the value; but as the proportions of the decreaſe of value, from experience above ſtated, will be greater than the proportions of the increaſe of value, this fluctuation will cauſe a deficiency in the mean value, which deficiency will always be in proportion to the greatneſs and quickneſs of

of the changes. This, I preſume, is occaſioned by the deſire of mankind in general to reſt on certainty, rather than rely on what is fluctuating and inconſtant, though they ſhould expect gain equal to the riſque, and by the low circumſtances of the majority of men, whoſe fortunes, in all prudence, direct to the firſt, rather than the latter. The caſe of inſurances is an evident proof of this remark. If the inſurers gain, which I think muſt be admitted, then they receive a premium beyond the value of the riſque, and this again the inſured pay for *certainty* againſt *contingent loſſes*.

Theſe few rules of eſtimating the value of things, well applied, will, I preſume, ſhew when it is convenient to introduce paper-money into a country, and when it will prove hurtful; what are its advantages and inconveniencies, general and particular, when introduced; of what great importance it is to prevent an exceſs in quantity, and to extend the uſes; and nearly what its value will be in any given ſtate.

If a nation has a quantity of money equal to its commerce, the lands, commodities, and labour of the people ſhall bear a middle price. This ſtate is the beſt, and tends moſt to enrich the people, and make their

happineſs laſting. If they ſhould mint paper to paſs for money, the increaſe of quantity in the former will leſſen the value of the latter, will raiſe the price of lands and rents, and make the labour of ſuch a people, and the commodities, be *rated* higher than in other places. Men's fortunes will riſe in *nominal, not real value*; from whence idleneſs, expence and poverty ſhall follow. Under theſe circumſtances, their *real money*, inſtead of their commodities, ſhall be exported from them. Here the paper will be their bane and deſtruction. But if their commerce, or uſes of money, exceed the quantity of it, their lands, labour, and commodities ſhall ſink beneath their worth in other countries. Few purchaſers of lands will be found in regard to the ſuperior profit that muſt attend the uſe of money in trade: the *wealthy merchant ſhall be at the head of affairs*: with few competitions; he ſhall be able to grind down the farmer in the ſale of his commodities, and, when thoſe fail to ſupport him, in the purchaſe of his lands. The artiſan's labour ſhall be depreciated by the merchant who exports it, or the needy farmer that uſes it. The wealthy only ſhall accumulate riches, the commonwealth ſhall decline, and in time farmers and artiſans muſt deſert the place for another, where their labour ſhall be better rewarded. Here

the uſe of paper-money will ſhake off the fetters and clogs of the poor. Merchants will multiply; they will raiſe the price of labour, and of the fruits of the earth, and thereby the value of lands. An equal diſtribution of gain and profit ſhall ſucceed, and deſtroy the partial accumulations of wealth.

I think theſe marks, taken from the value of lands, labour, and commodities, compared with their worth in other countries, will be found the only infallible rules to judge of an equality, exceſs, or defect of money in any place whereſoever; and conſequently will, at all times, unerringly ſhew the neceſſity of increaſing coins, or the contrary. Had a neighbouring province well underſtood and weighed theſe points, they had not created a paper credit far exceeding all their uſes for money, when they were able to ſupply themſelves with gold equal to their trade, nor at the ſame time have dammed up ſo many uſes for it, which now cover them with clouds and confuſion, that no man can ſee his way through. The beſt method they can uſe is to ſink it as faſt as poſſible, and not let their fund lie in Britain at an intereſt leſs than 4 *per cent.* when it is worth 6 in their own country, and their paper paſſes 50 *per cent.* leſs than the nomi-

nal value. But to return: when it is found neceſſary to add *paper-money* to the coin of any country, to ſupport its value ought to be the main and principal view. This will turn upon the FUND, the USES, and the QUANTITY.

All value ariſing from the uſe, I beg leave to call *extrinſick*.

Having ſhewn that paper-money acquires its extrinſic value from the uſes, which uſes apparently may be encreaſed or diminiſhed; I think it would be needleſs and miſpending the reader's time, to demonſtrate, that this value muſt be in direct proportion to the uſes; for it would really amount to no more than the proof of an axiom univerſally acknowledged, that the effect ſhall always be adequate to the cauſe. Therefore, in all future arguments, I ſhall take it for granted.

The fund ought to be as ſatisfactory to mankind as human wiſdom can deviſe and furniſh.

The community ſhould become ſecurity to anſwer all deficiencies in the FUND; this is not only the higheſt juſtice, but the beſt policy. It is juſt, becauſe it is a creature of their

their own, calculated for their private utility and advantage, and is in the management of the country by their repreſentatives and officers. But when they receive an intereſt from the money, the equity of it is unanſwerable: for it ſeems wholly inconſiſtent with juſtice, that one ſhould receive the intereſt, and another run the riſque of the principal. Policy requires it, becauſe the community will certainly receive more profit from its credit under their ſupport, than, with due caution, they can probably loſe by accidents in the fund.

Our next conſideration, with reſpect to the value, turns on *what* the fund is to pay, and *when*. Theſe are arbitrary, being within the power of thoſe by whoſe authority the money is emitted. But for the preſent purpoſe: Let us ſuppoſe it is to pay ſilver money, according to the late Queen's proclamation, to the value of 1000 *l.* for ſo much of the paper, as, according to the *nominal value*, amounts to that ſum at the end of 15 years. In this ſtate the 1000 *l.* paper, *with regard to the fund alone*, at the time of its emiſſion, is worth no more proclamation money than what will produce 1000 *l.* of that money at the end of the term, at compound intereſt, under as good ſecurity.

For example, take a 1000 *l.* paper, and let it repreſent that the poſſeſſor ſhall receive 1000 *l.* proclamation money for it at the end of 15 years, and let the uſe of money be worth 6 *per cent. per annum*; rebate 6 *per cent. per annum* with compound intereſt for 15 years, and you have the value of the 1000 *l.* proclamation money in hand, which appears to be but 417 *l.* 5 *s.* $3\frac{1}{2}$; more it cannot be worth, becauſe 417 *l.* 5 *s.* $3\frac{1}{2}$, with 6 *per cent. per annum* compound intereſt for 15 years added, will amount to 1000 *l.*

On this ſtate it appears, that the longer the term, the leſs the value, with regard to the fund alone. From whence it follows, that by increaſing the term, this value may be reduced to a degree beneath eſtimation. But whatever the value thus proved be, I call it *intrinſick.*

The FUND eſtabliſhed, I proceed to the USES as they next require our attention in regard to the value of the paper-money.

If value, in reſpect to the uſes of things, ſhall always be in direct proportion to thoſe uſes, (which I preſume I have heretofore proved in general, and ſhall hereafter ſhew is true in relation to paper-money) and we deſign to raiſe the power, it follows clearly, that

that to bring this to paſs, we ought to give it all the uſes of money, or coined gold and ſilver in other countries. From theſe uſes alone it muſt derive all the worth it ſhall bear beyond what I called the *intrinſick* value. For the purpoſe *take the caſe ſtated* on the Fund only, that the poſſeſſor of 1000 *l.* paper ſhall receive 1000 *l.* proclamation money in exchange for it, at the end of 15 years. On this account the paper appeared to be worth but 417 *l.* 15 *s.* $3\frac{1}{2}$. But ſuppoſe this 1000 *l.* paper may be immediately exchanged for 800 *l.* proclamation money, which is 382 *l.* 14 *s.* $8\frac{1}{2}$ more than the intrinſick worth, how has it acquired this exceeding price or value? I think plainly from the uſes. To prove the truth of this, ſuppoſe all the uſes as money taken away; unqueſtionably then the worth of 1000 *l.* paper in proclamation money will be reduced to what I call the intrinſick value; becauſe, depending upon the fund alone, it will be exactly in the ſtate of a fund to be paid at a future day; for in neither caſe can the creditor uſe it in the mean time. But if the creditor can by any contrivance uſe the ſum in that time, as he may the paper when it paſſes for money, that uſe muſt be ſomething worth. And when experience ſhews, that under this uſe the value advances from 417 *l.* 15 *s.* $3\frac{1}{2}$ to 800 *l.* I apprehend it is evident to a demonſtration, that

that the difference is derived from the uſe. To deny it muſt be as irrational and abſurd, as if, upon adding and extracting an ingredient to and from a compoſition, we perceived properties in the compoſition appear and diſappear, and yet were to deny that ſuch ingredient was the cauſe of thoſe properties. This leads me to attempt the ſolution of a queſtion I have known frequently made. If we in Penſylvania, upon a ſufficient fund anſwerable in ſilver, at a future day, mint a quantity of paper equal to the uſes of the people for money, and they willingly and univerſally accept of the paper in all payments, why ſhould it not, at all times, have *value* equal *to the nominal value*, or to the ſum chargeable on the fund at the day to come. This reaſon, urged by many, to ſupport the paper to this degree, is drawn from the nature of money in general. Money, ſay they, is but a ticket or counter, which repreſents to the mind of the poſſeſſor a quantity or degree of power. No man, on the receipt of it, ever examines how, or from whence it acquired that power, but in order to diſcover its reality and duration. For inſtance, when an Engliſh crown is received, does the acceptor regard any properties in the metal, or the figures of it, but thoſe which are to convince him that it is what it appears to be? a crown. It muſt be

be confeſſed, he does not. If ſo, then why may not a piece of paper, under diſtinguiſhing characters and impreſſions, affixed by law and common conſent, have the power of an Engliſh crown annexed to it? It is to paſs in the ſame manner as a crown does, and in the end will as certainly be a crown as the real one.

Therefore they conclude, that the paper may, and ought at all times, to be eſteemed equal to the quantity of ſilver the fund is to yield for it at the end of the term.

I confeſs I think this reaſoning fair, and the concluſion juſt and ſatisfactory, if we do not uſe ſilver in our *commerce, foreign or domeſtick:* otherwiſe not. The fact is, we do uſe ſilver *in our foreign commerce.* I preſume it will be eaſily admitted, as the paper repreſents the ſilver in the fund, and from thence obtains its credit, that it ſhall always be at leaſt of equal uſe with, or be as readily received as paper. Then if ſilver in hand has one power, *one uſe more* than the paper, to wit, that of procuring foreign commodities, it is impoſſible we can eſteem them equally. For that would be to controul the different virtues and influences of things over the mind of man, which neceſſarily depending upon the things themſelves, no laws or con-

conſent can, by any means, vary or direct. Wherefore, in the caſe ſtated, it ſeems to me certain and undeniable, that the paper muſt have leſs worth than the ſilver.

Having ſaid, that the uſes of the paper ſhould be as many as poſſible, it may be proper for me to ſpeak of ſome of thoſe uſes, the equity and advantage of which have been very much controverted. But here let it be underſtood, that I proceed upon the caſe laſt ſtated, that the quantity of paper is to be equal to all the uſes of money *within* the country. For that ſtate, and a partial ſupply of paper credit, differing in principles, require different reaſoning, and infer quite oppoſite conſequences.

Firſt, then, it ſeems juſt and reaſonable to compel all perſons contracting for ſilver money, after the law, that raiſes the paper money to be paid in the country is enacted, to receive the paper in lieu of it, and at the value ſtruck from the fund, although that be inferior to the real value. This perhaps may not be ſtrict equity *between the contracting parties*, but it is juſt *from the community*, who have power from the conſent of every member, by laws, to prohibit the exerciſe of a particular natural right inconſiſtent with the welfare of the whole, and to inflict a penalty

nalty upon diſobedience to the law. To uſe ſilver or gold with the paper, muſt depreciate the latter. Therefore the law forbids it. This can't be unfair, becauſe every man has notice of what coin he is to be paid in, and *is not obliged to exchange more* for the paper, than he thinks agreeable to the *real worth*. And if any ſhould endeavour ſuch uſe, the loſs of the difference between gold or ſilver and paper, is a kind of penalty for violating the law, which muſt be as juſt as any other penalty impoſed on an act, *not evil in itſelf, but prohibited* only.

Again, upon breach of contracts for payment of money in foreign countries, I think it both convenient and right, that ſatisfaction ſhould be made in the paper. The convenience of it will appear, if we ſuppoſe the debtor a member of the ſociety amongſt whom the paper paſſes; for as ſuch, being reſtrained by law from trafficking for gold or ſilver, and thereby diſabled from procuring them, he muſt either pay paper in compenſation, or lie in a goal, if the ſeverity of his creditors requires it. In theſe circumſtances, no man in his ſenſes would dare to contract a foreign debt, or transfer foreign money in the uſual manner, by exchange; the bad conſequences of which are too numerous and obvious to admit of, or need

need particular mention, and evidently prove the convenience of allowing ſatisfaction to be made in paper.

The equity of this ſatisfaction will be indiſputable, if the debtor pays a ſum of paper really of equal value with the foreign money. It is the common caſe on breach of ſpecifick contract. If it cannot be performed, the moſt exact juſtice requires no more than *an equivalent compenſation*.

Some perſons imagining the real worth of the paper equal to the nominal, have affirmed, that it ought to diſcharge theſe debts *at the nominal value*; others confeſſing a difference between theſe values, under ſome political views, have aſſerted the ſame. As I ſhall have occaſion to ſpeak on theſe opinions hereafter, upon a point ſimilar to this I ſhall only add here, that if this mode of payment ſhould take place, it would as effectually deſtroy foreign credit and negociations by exchange, as if gold or ſilver were to be inſiſted on here, to diſcharge a foreign debt. In one caſe, it would be the higheſt imprudence to be the debtor, in the other, it muſt be equally indiſcreet to become a creditor.

Pur-

Purſuing the uſes, I come to that of diſcharging by paper, the ſilver debts contracted antecedent to the law that raiſes the paper.

To ſhew the neceſſity of admitting this, I ſuppoſe it will be granted me, that there muſt at all times be a very great number of debtors who depend on their future labour and induſtry to pay their debts. This dependence is reaſonable and juſt, founded on the natural right of all fairly to purchaſe ſilver, the then current money of the country. The debtor has the continuation of this right in view and expectation at the time of his contract; without it he cannot be ſuppoſed either prudent or honeſt to borrow. If then, for the convenience and advantage of the whole ſociety, this right muſt be taken away by a ſubſequent law which he could not foreſee, it cannot be agreeable either to reaſon or good conſcience, to exact a payment in ſpecie; for that would be requiring a performance when we had expreſsly taken away the means. Therefore I think it clear in reſpect to the debtor, that the paper ſhould have this uſe. But how will this ſtand with the right of the creditor, who upon the contract as certainly expected to be paid ſilver, as the debtor did the opportunity of acquiring it to pay.

I pre-

I preſume, if he receives as much paper as ſhall be equal in power or value to the ſilver, it will be juſt in itſelf, and perfectly ſatisfactory to him. But can any man offer ſo high a degree of violence to his own reaſon, and the underſtanding of others, as to affirm, if he is forced to accept leſs, that ſtill he has juſtice diſpenſed him. If I borrow 100 *l.* in ſilver before the law, under agreement to repay it at the end of the enſuing year, and before the day of payment comes, the law takes place, commanding the lender to receive 100 *l.* paper for it, which ſhall be worth, or have power to procure 82 *l.* ſilver money only; with truth can this be called a rational or upright law? Certainly no. Nor ſhall it be any juſtification to me in conſcience to detain 18 *l.* of my creditor's money.

The rules of natural juſtice flowing from our fixed and unchangeable relations to each other, and the invariable nature and order of things, inforced by the expreſs commands of God, are of eternal and indiſpenſible obligation. No laws, no combinations of human power, cuſtoms, uſages, or practice, can controul or change them. We may, by the conſent of a majority, tie up the compulſory hand on the civil magiſtrate, and thereby diſſolve the power of coercive laws,

laws, but can no more abſolve from the moral duty, than we can reverſe decrees inrolled in heaven. If my debtor ſhould be ſo extremely weak, as to ſuppoſe this not criminal becauſe it is legal, (which I think next to impoſſible to imagine of a rational creature, and I make bold to affirm, never was the caſe of a creditor of underſtanding, ſufficient to know the meaſure of his demand) his opinion perhaps may ſerve for an excuſe, or extenuation of his crime, but never can prove the rectitude of the act, and ſtill the guilt muſt reſt ſomewhere. The law-makers, the authors of this miſtake, are culpable, unleſs they are under the ſame deluſion, which is yet more difficult to apprehend. Some, who gave up the juſtice of the law, defend their practice under it, by ſaying, they are creditors as well as debtors: and as they are obliged to receive, ſo they ſhould have liberty to pay. Alas! what feeble arguments ſatisfy, when they are caſt into the ſcale of intereſt, and gain is the conſequence of conviction. If the actions of men towards us are to be the meaſures of our dealing with others, then he that is cheated by any perſon, may juſtly plunder the next he meets. And truly I can't ſee why it ſhould ſtop here; for as we may be many times defrauded, and not know it, to be ſecure, and keep the ballance on the right

ſide, we ſhould pillage our neighbours as often as an opportunity offers. This may ſeem ſevere reaſoning, but really I think it fair from the firſt poſition; that becauſe one keeps back part of another's due, therefore he may honeſtly detain the right of a third innocent perſon.

Again, paying an equivalent cannot be injurious to the debtor. For ſuppoſe he pays 120 *l.* paper. If 100 pounds worth of coin'd ſilver, reduced to bullion, will then yield him ſo much, what does he more than perform his contract to pay 100 *l.* of coin'd ſilver? ſeeing a compleat recompence is perfectly conſiſtent with the right of each contracting party. Any remaining objections muſt ariſe from its being hurtful or injurious to the ſociety in general. This has been aſſerted, and endeavours have been uſed to ſupport the truth of it, by this kind of reaſoning.

Firſt, if the law ſhould oblige the debtor (for the purpoſe) to pay 120 *l.* paper in lieu of 100 *l.* ſilver, the legiſlature would thereby confeſs the inferior worth of the paper, which will be attended with this ill conſequence, that the general current value of the paper ſhall be leſs than if the law had declared it equal to ſilver.

Secondly,

Secondly, That leſſening the current value will be a loſs to the ſociety in general. To the firſt, That obliging to pay a larger ſum of paper for a leſs of ſilver, acknowledges an inequality of value under the like denominations, is ſelf-evident. But from thence to infer, that the paper ſhall paſs in general, at leſs value than if they had been declared equal, with ſubmiſſion, I think miſtaken, and inconcluſive reaſoning.

To be clearly underſtood, permit me to examine this upon the fact. Suppoſe the law, in the ſtrongeſt terms, enacts that the paper ſhall be in value equal to ſilver money, according to their ſeveral denominations. Carry the paper from thence to uſe, by offering it in exchange or payment for ſome commodity, and then I aſk a ſhort queſtion, Who it is that really ſets a value on the paper, the legiſlature, or the perſon that has the commodity to ſell? If it be anſwered, the firſt, then I ſay, this cannot be, unleſs they alſo limit the price of the commodity. For if the ſeller can raiſe and porportion the price of it to what he thinks the real worth of the paper, the law-maker's declaration notwithſtanding, it is he that ſtrikes the value, and not they. For inſtance, put the caſe; a farmer, juſt upon emitting the paper, has a buſhel of wheat to ſell, which he rates at,

and will not part with under, three ſilver ſhillings. The future current worth of the paper being unknown to him, let him by gueſs imagine theſe three ſhillings equal to four ſhillings paper. A purchaſer then preſſes him, under the influence of the law, to accept of three paper ſhillings for this wheat; but he, without regard to the law, according to his own opinion, demands and receives four ſhillings for it. Will any man ſay, the legiſlature determined the value of the paper here? Apparently the ſeller did. For the legiſlature commanded, that the three paper ſhillings ſhould be valued at three of ſilver, but the farmer has made his eſtimate at three fourths of that value only. Unqueſtionably the vender muſt always have this power, unleſs, as I ſaid before, the law-makers can limit the price of all commodities, which is not practicable, conſiſtent with the order of things, or the preſervation of men's properties. But it may be alledged, although the receiver of the money is not bound to obſerve the legiſlative command, yet ſtill it may have ſome weight. He may conſider it to be the impartial opinion of the wiſeſt part of the ſociety, what the future current value of the paper ſhall be, and thereby add, in ſome degree, to its worth.

In

In anſwer I muſt obſerve, firſt, this gives up the point of power, and changes it to a matter of meer advice. Then, ſuppoſing that of any import, ſurely delivering it in a mandatory way, will be very little able to produce the deſired effect. Imperative advice (pardon the expreſſion) ſavours too much of ſelling the rabbit, to prevail or perſuade. In ſhort, the words command and adviſe, convey two ideas ſo widely different, and ſo oppoſite and repugnant to each other, that it is abſolutely impoſſible we ſhould take the firſt for the laſt. But granting it to be interpreted as a piece of cordial advice. Shall it be received implicitly, and paſs without any examination? I preſume not. When it comes to be examined, if the people ſhould be informed, that, upon a nice examination, the legiſlature had found a fourth, fifth, or ſixth difference between ſilver and paper, as ſuch calculations are generally out of the reach and comprehenſion of moſt people, it ſeems not improbable that the paper might paſs at firſt, agreeable to the given difference. *I ſay at firſt*; for I contend, if the calculation ſhould be erroneous, (which the uſe of the money in time will diſcover) this effect ſhall not be laſting. But if, on the contrary, they learn that the paper, without any calculation, by gueſs, was pronounced equal to ſilver, which every man's judgment, who

knows the ſuperior power of the laſt, muſt diſapprove of, what influence can the legiſlative advice then have? Undoubtedly it will be univerſally rejected, and each perſon turned at large to make his eſtimate as well as he can, without the leaſt regard to the legiſlative opinion.

Once more, take it, that the quantity of ſilver in 100 ſhillings proclamation money is now worth 120 paper ſhillings in Penſylvania, and ſuppoſe this requiſite had hitherto been omitted in all laws relating to the paper: let the ſupréme authority to-day enact, that from henceforth all perſons ſhall give as much for 100 ſhillings paper as they do now for that quantity of ſilver, would this make the leaſt alteration in the current value of the paper? Might a man, with reaſon, expect to buy more bread or wine to-morrow with 100 paper ſhillings, than he can to-day? if the legiſlative power can bring this to paſs, perhaps it may prove more than ſome people deſire; for I conjecture it will ſhew, that we never had any occaſion for paper. Whatever quantity of ſilver we had amongſt us, when the paper was ſtruck, might have been extended in value proportionable to our wants, and all the buſineſs of paper-money done at once. The abſurdity of this lies open to the meaneſt capacity; yet

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I know no juſt means whereby mankind can give value to things, but increaſing or leſſening the *uſes* or *quantity*. The paper derives its *intrinſick worth from* THE FUND which is ſtable and fixed. The *uſes* give it further value, but that ſhall always be in inverſe proportion to the quantity. The quantity is abſolutely under the direction of the legiſlature, but the uſes not. As they are raiſed, ſo they muſt be limited, by our neceſſities, and the diſpoſition and order of things. The utmoſt the legiſlature can do, or is needful to be done, is to make the paper anſwer *all thoſe uſes*. When they have aſcertained the FUND, the *uſes* and *quantity*, their power expires. And the current value, if the people receive it, flows from them by ſo unavoidable and a neceſſary conſequence, that whatever the legiſlature or others will or do, (if it alters not the fund, uſes, or quantity) can work no change in it in general. For a time, as long as people are ignorant, I confeſs it may; but when experience, that excellent miſtreſs, has diſcloſed what worth they give, all imaginary value ſhall ceaſe and vaniſh, and on the three re-

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I conclude what I have to ſay on this point with a ſhort obſervation. That all the attempts of aſſemblies in America in this way even by penalties on diſobedience, have proved fruitleſs and abortive. And it has been extremely remarkable, that although tranſgreſſing the law, by making a difference between ſilver and paper, has been every day's practice, not in ſecret, but openly, I have never heard, that any perſon has been ſo much as queſtioned publickly, or has loſt any degree of reputation privately for doing it. So far do the dictates of juſt and right reaſon ſurpaſs and tranſcend the force and power of any human device or inſtitution, that oppoſes or contradicts them.

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Upon the quantities of the fruits of the earth, and manufactures produced, entirely depend the wealth of the country. A farmer and tradeſman, for a certain portion of their commodities one year, receive 8 ſhillings, and with them can purchaſe an ounce of ſilver. The money being raiſed in value next year, they can get but 7 ſhillings for the ſame quantities; but ſtill that ſum will buy an ounce of ſilver. Can this difference, in the value of the paper, cauſe the one to till the more or leſs ground, or the other to make a greater or leſs quantity of his manufacture? What is it to them how the money is rated, if they receive and part with it at the ſame value? Gold, comparing quantity to quantity, is more valuable than ſilver. If ſilver was to vaniſh out of the world,

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All gain from our neighbours muſt be by getting their money or their goods. Theſe are to be acquired only by conqueſt or commerce. The firſt I paſs over as impertinent to this purpoſe. Then let us ſee whether advancing the value of the money can reflect any gain to us from them in the latter. Gain in trade may be conſidered as derived from the manner or the meaſure of it. The manner of trade in general is of ſhort circuit, and conſiſts of importing foreign money or commodities, and the exportation of our own. In theſe negociations we ſhall find the worth of the paper affords us no advantage over, or an opportunity to get from our neighbours.

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Suppoſe a foreigner imports 800 *l.* proclamation money, and finding That not the medium of our commerce, propoſes to exchange it for paper. Let the value of the paper be ſuch, that he can get but 800 *l.* of it for his ſilver. With the paper he purchaſes corn, which he tranſports. What have we got from this foreigner? 800 *l.* in ſilver. Should we have got leſs had he received 1000 *l.* for his ſilver, and with it bought the ſame quantity of wheat? Certainly no. Neither caſe makes us richer or poorer than the other; and the ſame conſequence will be found to attend all foreign imports whatever.

When we export our commodities, the value of the paper is quite out of the queſtion; for in their ſales, or the returns, it is in no ſort concerned. If we ſend the paper abroad, and ſell it, unleſs it be kept in expectation of what the fund will yield for it at the end of the term (which I intend to ſpeak to hereafter) we ſhall find it but an exchange of merchandizes between us and them. For the ſeller brings the goods he receives here, and the buyer, by means of the money, carries back our goods; the paper is but a meaſure, as it was in the caſe of imports and exports in return; and if it be rated alike abroad and at home, no loſs

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Sup-

Suppoſe a foreigner imports 800 *l.* proclamation money, and finding That not the medium of our commerce, propoſes to exchange it for paper. Let the value of the paper be ſuch, that he can get but 800 *l.* of it for his ſilver. With the paper he purchaſes corn, which he tranſports. What have we got from this foreigner? 800 *l.* in ſilver. Should we have got leſs had he received 1000 *l.* for his ſilver, and with it bought the ſame quantity of wheat? Certainly no. Neither caſe makes us richer or poorer than the other; and the ſame conſequence will be found to attend all foreign imports whatever.

When we export our commodities, the value of the paper is quite out of the queſtion; for in their ſales, or the returns, it is in no ſort concerned. If we ſend the paper abroad, and ſell it, unleſs it be kept in expectation of what the fund will yield for it at the end of the term (which I intend to ſpeak to hereafter) we ſhall find it but an exchange of merchandizes between us and them. For the ſeller brings the goods he receives here, and the buyer, by means of the money, carries back our goods; the paper is but a meaſure, as it was in the caſe of imports and exports in return; and if it be rated alike abroad and at home, no

loſs

loſs or gain can enſue to either country, or to the traders, from a high or low valuation of it.

He that is not ſatisfied by theſe reaſons, may perhaps be convinced by the experience of others. The coins of England being finer than thoſe of Holland, quantity to quantity, are of more value; but was it ever thought the Engliſh had therefore more power or traffick, to obtain the money and merchandize of other nations, than the Dutch?

Were it poſſible that the profit of trade could be affected by lowering the coin, that cunning and ſkilful generation would hardly have debaſed theirs by deſign, much leſs have continued for ſo long a time as they have done. * The paper-currency of New England, by a great exceſs in the quantity, is ſunk to a ſhameful degree. From hence we hear of much fraud and diſhoneſty amongſt them; but it was never yet objected that it injured them in trade. In truth, if it had, as they principally ſubſiſt by com-

* * Theſe facts muſt be referred to the time in which this treatiſe was written, twenty years ago.——Theſe evils have been remedied by the acts of parliament reſtraining the aſſemblies from making their money a legal tender.

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merce, they muſt have been ruined and undone long ago.

* The currencies of North and South Carolina are in the ſame condition; but ſtill their trades go on as uſual, without the leaſt alteration. In reſpect to the meaſure of our commerce, it is evident that cannot be impaired by reducing the value of our money, unleſs we are thereby deprived of a ſufficient quantity to carry it on: for inſtance, if 60,000 *l.* proclamation money be neceſſary to carry on all our trade, and we ſtrike 60,000 *l.* paper, in hopes it ſhall have the value, upon experience it proves worth but 50,000 *l.* proclamation. Then, for want of the remaining 10,000 *l.* ſome of the wheels of trade muſt ſtand ſtill or move ſlower, which apparently will obſtruct a part of our gain. But the impediment vaniſhes, by raiſing an additional ſum of paper equal to the 10,000 *l.* deficiency. The power of doing this we have hitherto enjoyed and exerciſed without any reſtraint; and probably ſhall retain as long as we uſe it with diſcretion and prudence.

Seeing then, that by raiſing the value of our money, we are not likely to get any thing from our neighbours, let us now try whether by lowering it they can get any thing from us,

us. I preſume I have proved, that in common commerce, receiving and returning the money for merchandizes, they cannot; conſequently no method remains, but keeping the money to receive ſilver from the fund at the end of the term. By theſe practices they can gain from us only upon one ſuppoſition; that they purchaſe the money at leſs than what I call the intrinſick worth: for if at more they loſe by it, and we gain from them. I have ſhewn, rating intereſt at 6 *per cent. per annum*, that 1000 *l.* payable at the end of 15 years, is worth 500 *l.* to take a round ſum, in hand. If our neighbour can buy it for 400 *l.* he gets 100 *l.* from us. But on the contrary, if he gives 800 *l.* for it, he loſes 300 *l.* For he lends us 800 for 15 years, at 2 *l.* 8 *s. per cent. per annum*, when it is really worth 6 *l.* and the difference, which on computation will be found in the whole to amount to 300 *l.* or nearly, we gain from him. But neither of theſe caſes can poſſibly happen while men have the leaſt capacity to diſcern and preſerve their own intereſt. Indeed I have never heard one ſound reaſon, either moral or political, for this manifeſt deviation from juſtice and equity. So far is it from good policy, that if I am not miſtaken, it muſt work an effect contrary to the deſign; and inſtead

inſtead of ſupporting the credit of the paper, undermine and diminiſh it.

The public authority is guarantee for the payment of all juſt debts. Every body muſt agree, that the value of paper money is nothing but ſo much public credit. Now, is it poſſible for the public authority to break its own engagements, in reſpect of the payment of the debts, without in ſome degree blaſting that credit which is to be the ſupport of the money? Public and private faith are, in this reſpect, exactly alike; and it is as eaſy to ſee how violating one public obligation ſhall impair the value of the paper-money, as how a known breach of private contract in a goldſmith ſhould leſſen the worth of his bills or notes.

A ſecond inconvenience attending it, is loſs of foreign credit, which muſt be a great misfortune to a trading country. This is occaſioned in the ſame manner, by which I juſt now ſhewed the value of the money might be affected; and let it not be thought amiſs that I mention a third inconvenience, namely, proſtituting and debaſing the dignity and excellence of the divine and moral laws in the eyes of the people, and encouraging them, by ill practices and examples, to depart from true honeſty and virtue. For

if

if a man can once believe, he may juſtly, by human authority, tranſgreſs thoſe laws, he loſes much of the due and neceſſary reſpect that ought to be paid them, and ſhall afterwards be able to reſiſt their checks and admonitions with greater eaſe and facility: and he that owes to 20 people, and pays them with five ſixths of their due, and ſees his neighbour do the like, under colour of law to-day, will, I am afraid, with leſs regret and compunction, defraud his creditors without a law to-morrow.

But now, granting entire recompence ought to be made, it may be aſked how the quantum of paper to be paid for antecedent ſilver debts ſhall be aſcertained.

The legiſlature cannot ſettle it with exact juſtice, becauſe no ſkill can diſcover what the future current value ſhall be; and if the people are left to do it themſelves, it will introduce many law-ſuits and oppreſſions, and ſtill they may be as far from right as if the legiſlature had done it. The greater inconveniences in the latter, rationally determine the power to the former. When they come to exerciſe it, if it is the firſt experiment of the kind, I imagine they can do little more than gueſs at the value. But as it is within demonſtration, that the paper cannot be

equal

equal to ſilver, ſurely it ought not to be rated ſo. Impartiality requires the gueſs to be as near as may be, and then, although it may be miſtaken upon the laws of change, it may be perfectly equal, becauſe either party may loſe or gain. It is a common caſe in life, and muſt be always ſo in untried things, and no man can juſtly complain of the event, becauſe all errors are owing to our weakneſs, not our faults.

If any of our neighbours have iſſued paper-money, the value of theirs will afford us ſtrong lights to diſcover the worth of our own, and allowing for different circumſtances, we ought to rate ours as they have found theirs upon trial. But when experience has taught us the true worth of the money, all difficulty ends, and whatever debts or pre-contracts remain (as many from their growing nature muſt) ſhould be ſatisfied according to that value.

I have now run through all the uſes that occur to me worthy of obſervation; and therefore ſhall proceed to the quantity.

When it is deſigned, that paper ſhall be the only money of a country, the quantity, according to the nominal value, ought to be, as near as poſſible, adequate to the uſes,

or in other words, to all commerce, foreign and domeſtick. It is eaſier to ſee the truth of this rule in ſpeculation, than to reduce it to practice; becauſe the number and extent of the uſes of money, in a populous and induſtrious country, are far beyond our knowledge and comprehenſion. From the circumſtances of other places, the quantity of money current before iſſuing the paper, and the value of their exports, rational conjectures may be formed, but experience alone can teach us what ſum will ſuffice. To ſtrike the neceſſary quantity at once, would be moſt advantageous to the ſociety, and equal with reſpect to individuals; but as that cannot be known, let it be approached as near as may be. And ſince we may expect to err, I preſume it will be better to err on the ſide of deficiency than exceſs, ſeeing additions are eaſy, but ſubſtractions oftentimes very difficult after the emiſſion.

FROM what I have ſaid above, which the foregoing treatiſe doth fully confirm and eludicate, the following propoſitions, which I apprehended to be truths, do ariſe. That in Colonies, the eſſence of whoſe nature requires a progreſſive increaſe of ſettlements and trade, and yet who, from the balance

lance of trade with the mother country being againſt them, muſt ſuffer a conſtantly decreaſing quantity of ſilver money, *a certain quantity of paper-money* is neceſſary. It is neceſſary to keep up the increaſing operations of this trade, and theſe ſettlements; it is alſo neceſſary, in ſuch circumſtances, to the equal diſtribution and general application of theſe benefits to the whole Colony, which benefits would otherwiſe become a monopoly to the *monied merchant only*: it is prudent, and of good policy in the mother country to permit it, as it is the ſureſt means of drawing the balance of the Colony trade and culture to its own profit.

Theſe reaſonings further ſhew, how, by ſecuring the *fund*, extending the *uſes*, and regulating the *quantity*, this meaſure of a paper-currency may be carried to the utmoſt extent of which it is capable. Nor do they ſtop here; for as they give the rule whereby to judge of the exceſs or defect of money in any place whatſoever, ſo do they, at all times, ſhew the neceſſity of encreaſing it, or the contrary.

Although the reaſonings, which from my own ſentiments of the matter, I have applied to this ſubject, and thoſe, with which I am able to oblige the world, by publiſhing the

above very judicious and able tract, do perfectly coincide in theſe points: yet upon the point of the USES, in conſidering the remedies to be provided againſt the quantity of any fallacious depreciation of this paper-money, our reaſonings ſeem to divide on quite different ſides of the queſtion. The author of the above tract aſſerts, that in Colonies, where paper-money is created, the people of that Colony *ſhould be compelled by law to receive* it in payments: and he ſtates two or three different caſes in proof of his aſſertion: My opinion ſuggeſts, that this paper-money ought *by no means to be a legal tender:* and yet, different as theſe propoſitions may appear, they will be found to coincide in the application of the remedy; in the only proper and radical remedy, *the not permitting the paper-money to be a legal tender.* This gentleman experienced in the politicks of the Colonies, and knowing the danger, if not the impracticability, of any legiſlature in theſe Colonies adopting this maxim, takes up the reaſonableneſs and neceſſity of this paper-money being forced into payments by law;—but then, in all the caſes wherein he ſtates the remedy in equity, againſt the injuſtice, which may ariſe from the artificial value of this paper-money thus declared, he firmly and juſtly declares, that the payment thus by law forced upon the creditor *in paper*,

ought

ought not to be according to the nominal legal value of that paper, but according to the real value, an equiva'ent to the debt.—— This judgment totally deſtroys the maxim of its being a legal tender. In the application therefore of the remedy, our opinions do not differ, but the truth of them becomes the more elucidated by this coincidence of two thus ſeemingly different propoſitions.— I will therefore proceed in ſaying, that by the reaſonings above it appears, that the only and proper remedy, againſt the iniquities of a fallacious, depreciating paper-currency, is *that radical one, of not permitting this paper-money to be a legal tender*.—On the other hand, ſo confirmed am I in my opinion of the neceſſity and propriety *of a certain quantity* of paper-money in the Colonies, that were I not convinced, that the reſtraining of it from being a legal tender, will not deſtroy the exiſtence of it, but, on the contrary, amend its currency; I would even ſacrifice my conviction to this point of utility: but whatever apparent value this paper-money may ſeem at firſt view to loſe by reſtraint of this one uſe, this very reſtraint, (if the Colonies will have paper-money) muſt become an occaſion of ſo meliorating and ſecuring the *fund*, of ſo exactly regulating *the quantity*, and of adding ſome *other valuable uſe*, namely an intereſt, or ſome premium equiva-

lent to it; that the paper-money ſhall become thus intrinſically, and of its own nature, a better and ſurer currency than all the power and authority of Colony-government could make it. For not being forced into currency, by any external value derived from authority, it muſt, like bullion in coin, derive its currency from its intrinſick value and applicableneſs to the purpoſes of money;—ſo that thus becoming, from neceſſity, a more determinate meaſure, a more practical inſtrument of trade, and a more beneficial depoſit, as bearing an intereſt even while in currency, it becomes to have *all the uſes* of bullion in coin, and one more,—ſo as even to bear a premium,—which in fact is the caſe of the treaſurer's notes in the province of the Maſſachuſetts-Bay in New England, though they are not a legal tender.

As the inconvenience of permitting the aſſemblies of the Colonies to iſſue paper-money, under the ſanction of its being a legal tender, had been complained of and confeſſed; an act of parliament was made, to reſtrain that part of the Colonies, againſt which the complaint chiefly lay. Since that time, a general reſtraint hath been lain upon all the Colonies, by a like act of parliament, extending to the whole. The majority of the

the men of buſineſs and property in the Colonies, have ever heretofore wiſhed to have the aſſemblies reſtrained by act of parliament, from the power of giving the ſanction of a legal tender to their paper-money: They eſteemed that reſtraint to be the only effectual means of preventing the many bad practices, which have ariſen from this illuſory falſe coin; to the detriment of real buſineſs and real property. On the other hand, ſeeing the abſolute neceſſity of ſome paper currency, ſchemes of the like nature, as that of the following propoſal, have been thought of. I have had opportunities, not with governors and crown-officers, but with the leading men of buſineſs in the Colonies, of examining and conſidering ſeveral of theſe ſchemes. The following propoſal may be conſidered as the reſult of theſe diſcuſſions, containing and comprehending, according to my beſt judgment, all which was thought conſiſtent with the liberties of the people, ſafe in reſpect of their intereſt, and effectual to the point required. So far am I from aſſuming any merit in the invention or framing of it, that I deſire it may be conſidered, as founded on what hath been actually practiſed in Penſylvania, by the good ſenſe and good policy of the aſſembly of that province, with ſucceſs and with benefit to the public. That the particular propoſal, as it is now

formed, and applied to the preſent exigences of America and Great Britain, was drawn up ſome years ago, in conjunction with a friend of mine, and of the Colonies. It was, by us, jointly propoſed to government, under ſucceſſive adminiſtrations, in the years 1764, 1765, 1766, during which time, the publication was ſuſpended. It is now given to the publick, not by way of appeal againſt adminiſtrations, but as a ſcheme which, although not attended to by a Britiſh miniſtry at preſent, may yet ſuggeſt ſomething that may be of uſe to better politicians than we pretend to be.

We are fully appriſed how much we have riſqued, both in the propoſing, and in the now publiſhing this ſcheme.—If the Britiſh ſtateſmen ſhould ſtill think that they can turn it to no good; and if the American patriots ſhould think that a dangerous uſe might have been made of it by government: We ſhall be thought by the one to have been impertinent, and by the others to be miſchievous meddlers. If our ſtateſmen ſhould have the happineſs to find out the right uſe of it, and, like the humbler, but not leſs wiſe politicians in the Colonies, to apply it to the mutual benefit of government, and of the people; then we ſhall not be allowed to have the leaſt ſhare, much leſs

any

any merit in the forming of it, or in the application of it: twenty different people will prove, that it has been their ſcheme. About this we are not anxious, any more than diſappointed that our Britiſh ſtateſmen could not find their way to the uſe of it. We now propoſe it to the ſober ſenſe and experience of the Colonies. Who will know how to profit by it, how to convert this ſpecies of credit, into a real efficient currency; how to benefit *and to take the lead of that power and political intereſt*, which their taking the management of this will neceſſarily throw into their hands. *We need not point out to them* how that will ariſe.——They have the means, whenever our bad policy, or their own prudence ſhall lead them to make uſe of ſuch, of giving this currency a general value throughout America, by eſtabliſhing an intercommunion and reciprocation of credit, under acts paſſed by each particular aſſembly, all having reference to this one point;—regulating the quantity which each province or Colony ſhall iſſue—by the ſtate of its depreciation; and regulating the proceedings in their ſeveral courts of law, as to the ſpecialty of all bargains and contracts made in this ſpecial note-money. They alſo will know, which hath hitherto puzzled our ſtateſmen, how to give it a *real intrinſick value*, without calling

calling in the aid of the government of Great Britain, to give it *an artificial one*, by making it a legal tender; and without paying to that government *forty thouſand pounds per annum*, which ſum, at leaſt, the intereſt of this money would have produced as a revenue.

As the paper-money act made and paſſed in Penſylvania, in 1739, was the compleateſt of the kind, containing all the improvements which experience had from time to time ſuggeſted, in the execution of preceding acts: An account of that act will beſt explain and recommend the meaſure contained in the following propoſal.

The ſum of the notes, by that act directed to be printed was 80,000 *l.* proclamation money: This money was to be emitted to the ſeveral borrowers, from a loan-office eſtabliſhed for that purpoſe.

Five perſons were nominated Truſtees of the *loan-office*, under whoſe care and direction, the bills or notes were to be printed and emitted.

To ſuit the bills for a common currency, they were of ſmall and various denominations, from 20 ſhillings downwards to one ſhilling.

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Various precautions were taken, to prevent counterfeits, by peculiarities in the paper, character, manner of printing, ſigning, numbering, &c.

The truſtees took an oath, and gave ſecurity for the due and faithful execution of their office.

They were to lend out the bills on real ſecurity of at leaſt double the value, for a term of ſixteen years, to be repaid in yearly quotas or inſtallments, with intereſt: Thus one 16th part of the principal was yearly paid back into the office, which made the payment eaſy to the borrower: *The intereſt was applied to public ſervices*, the principal, during the firſt ten years, let out again to freſh borrowers.

The new borrowers, from year to year, were to to have the money only for the remaining part of the term of 16 years, repaying, by fewer, and of courſe, proportionably larger inſtallments, and during the laſt ſix years of the 16, the ſums paid in, were not to be remitted, but the notes burnt and deſtroyed; ſo that at the end of the 16 years, the whole might be called in and burnt, and the accounts completely ſettled.

The truſtees were taken from all the different counties of the province, their reſidence in different parts, giving them better opportunities of being acquainted with the value and circumſtances of eſtates offered in mortgage.

They were to continue but four years in office; were to account annually to committees of aſſembly; and, at the expiration of that term, they were to deliver up all monies and ſecurities in their hands, to their ſucceſſors, before their bonds and ſecurities could be diſcharged.

Leſt a few wealthy perſons ſhould engroſs the money, which was intended for more general benefit, no one perſon, whatever ſecurity he might offer, could borrow more than 100 *l.*

Thus, numbers of poor new ſettlers were accommodated and aſſiſted with money to carry on their ſettlements, to be repaid in eaſy portions yearly, as the yearly produce of their lands ſhould enable them.

Great inconveniencies had ariſen in other Colonies, from a depreciation of their paper money, occaſioned by emitting it in too great quantities.

It was difficult to know beforehand, what quantity would be ſufficient for a medium of exchange, proportioned to the trade of the country, and not to exceed the occaſions.

To prevent the miſchiefs attending an over quantity; the government of Penſylvania began with a ſmall ſum of 15,000 *l.* in 1723, proceeded to increaſe it gradually, in following years, and thus prudently *felt* for a proportion they could not previouſly *calculate*; and, as they never exceeded a moderate ſum, the depreciation was never ſo great as to be attended with much inconvenience.

The advantages that ariſe from this act, were from a view thereof, in 1752, thus expreſſed, by a committee of aſſembly, in their report of Auguſt, 19th.

" Furniſhing the country with a medium
" of trade, and of a kind that could not, to
" any purpoſe, be exported; as it facilitated
" mutual commerce, *leſſened our taxes by*
" *the intereſt it produced*; and made it more
" eaſy for every one to obtain ready pay for
" his labour, produce or goods, (a medium
" ſo evidently wanted at the time paper-
" money was firſt iſſued) has doubtleſs,
" been

" been one great means of the ſubſequent
" increaſe of our trade and people, by in-
" ducing ſtrangers to come and ſettle among
" us. But your committee conceive that
" the manner of iſſuing this medium, con-
" tributed no leſs to thoſe happy effects,
" than the medium itſelf. It was by the
" law directed to be emitted on loans, in
" ſums of 12*l.* 10*s.* and upwards, not ex-
" ceeding 100*l.* to one perſon for a long
" term, on eaſy intereſt, and payable in
" yearly quotas, which put it in the power of
" many, to purchaſe lands and make planta-
" tions; (the loan-office enabling them to
" pay the purchaſe ſo eaſily) and thereby to
" acquire eſtates to themſelves, and to ſup-
" port, and bring up families, but who
" without that aſſiſtance, would probably
" have continued longer in a ſingle ſtate,
" and as labourers for others, or have quit-
" ted the Colony in ſearch of better fortune.
" This eaſy means of acquiring landed
" eſtates to themſelves, has, we ſuppoſe,
" been one principal encouragement to the
" great removal hither of people from *Ger-*
" *many*, where they were only (and could
" ſcarce ever expect to be other than) ten-
" ants. That it ſhould be eaſy for the in-
" duſtrious poor to obtain lands, and acquire
" property in a country, may, indeed, be
" charge-

" chargeable with one inconvenience, to " wit, that it keeps up the price of labour, " and it makes it more difficult for the *old* " *ſettler* to procure working hands; the " labourers very ſoon ſetting up for them- " ſelves, (and accordingly we find, that " though perhaps not leſs than 30,000 la- " bourers have been imported into this pro- " vince, within theſe twenty years, labour " continues as dear as ever) yet this inconve- " nience is perhaps more than ballanced by " the riſe and value of his lands, occaſioned " by increaſe of people: and to the public in " general numbers of ſubſtantial inhabi- " tants, have been always reckoned an ad- " vantage. In fine, by rendering the means " of purchaſing land eaſy to the poor, the " dominions of the crown are ſtrengthened, " and extended; the propietaries diſpoſe of " their wilderneſs territory, the Britiſh na- " tion ſecures the benefit of its manufac- " tures, and increaſes the demand for them; " for ſo long as land can be eaſily procured " for ſettlements, between the *Atlantic* and " *Pacific* Oceans, *ſo long will labour continue* " *to be dear in America*; and while labour " continues dear, we can never rival the " artificers, or interfere with the trade of " our mother country."

But

But the act being expired, and the proprietors and the people differing about the terms of renewing it, the former, though they and their deputies had received annual preſents out of the intereſt, amounting to near 40,000 *l.* yet, inſiſting on greater future advantages, which the aſſembly did not chuſe to allow, *this excellent machine for ſettling a new country, now no longer ſubſiſts.* And as by the late act of parliament, no more paper-money can be iſſued in the Colonies, that ſhall be a *legal tender*, it may perhaps be neceſſary for government here to make ſome proviſion of a currency for the Colonies. If this ſhould be neceſſary, the Penſylvania ſcheme, which has by long experience, been found ſo practicable, and ſo uſeful, may, with a few changes, to accommodate it more to general purpoſes, be ſafely and advantageouſly extended to all the Colonies, by an act of parliament as follows.

Let millions, in bills of credit (or paper-money) be printed here, for the uſe of the Colonies.

Let a loan-office be erected in each Colony, to iſſue the bills, take the ſecurities, and to receive the quota's yearly paid in.

Let

Let the bills be iſſued for ten years, payable a tenth part of the ſum yearly with intereſt, at 5 *per cent.*

Let the Bills be made by the act, a *legal tender* in all the Colonies, and the counterfeiting made death. I deſire to mark the very material difference of a paper currency created by act of parliament, and one iſſued to the Colonies, as the neceſſities only of the Coloniſts have occaſion for it, from a paper currency poured like a deluge over a country, by act of aſſembly only: In the one caſe, the miſchief of its being a legal tender, has been ſeverely felt, and therefore forbidden: In the other caſe, the making it a legal tender, is not only beneficial but neceſſary.

Let there be no limitation of the ſums to be borrowed by one perſon, but that every one may borrow as much as he can give double ſecurity for, by a mortgage of real clear eſtate.

And to prevent an over quantity being extant at one time, let an intereſt of 4 *per cent.* be allowed, for all ſums lodged in the office, during the time the owner ſuffers it to remain there. *By this means, it is ſuppoſed, the due proportion of money that ſhall*

be current, will find itſelf; and adapt itſelf from time to time, to the occaſions of commerce.

The effects of this ſcheme would be, that although the ſilver and gold acquired by the Colonies, would be all ſent to England: Yet they would have among them, in conſequence of this meaſure, a legal tender.

They would alſo have a ſufficiency of caſh current for all purpoſes.

They would not have too much current at one time, as the allowance for intereſt for ſums lodged in the office, would always bring in the ſurplus.

The ſettlement and improvement of new tracts of land would be greatly encouraged and promoted, population encreaſed, trade extended, &c.

The means of remittance to England would be always at hand, and the commerce thereby facilitated.

A great annual ſum, continually increaſing, will ariſe to the crown for intereſt, which,

which, after deducting charges, may be applied to American purpoſes, in eaſe of this kingdom; and become *a permanent and effective revenue*. A conſiderable profit will alſo ariſe to government, from the wearing out, and total loſs of a great deal of ſmall money.

It will operate as a general tax on the Colonies, *and yet not actually be one*; as he who *actually* pays the intereſt, *has an equivalent*, or more, in the uſe of the principal. But the tax, if it can be ſo called, will, in effect, ſpread itſelf more equally on all property, perhaps more ſo than any other tax that can be invented; ſince every one who has the money in his hands, does from the time he receives it, to the time he pays it away, *virtually* pay the intereſt of it, the firſt borrower having received the value of it (to uſe for his own profit) when he parted firſt with the original ſum. Thus the rich who handle moſt money, would in reality pay moſt of the tax.

Theſe bills having thus *full* credit, the government can iſſue, on occaſion, any quantity for ſervice, in caſe of an American war, without needing to ſend *real caſh thither, by hurtful contracts*.

Plenty of money thus continued in the Colonies, will keep labour high, and thereby prevent the apprehended danger of interfering manufactures.

For the more eaſy aſcertaining of titles, there ſhould be a clauſe in the act, requiring that all transfers, conveyances and incumbrances whatſoever ſhould be recorded,—this of itſelf would be a great advantage to the Colonies.

The manner of carrying this propoſal into execution may be as follows.

An office to be eſtabliſhed in London, to be managed by two Commiſſioners, appointed by the treaſury; their ſalaries *per annum*, with *per annum*, for clerks and incidents of office, to be paid out of the revenue only, ariſing from the intereſt.

The buſineſs of this office to be

1. The printing of the paper-money.

2. The ſigning of it by the Commiſſioners.

3. The diſtribution of it to the offices in America.

4. The

4. The entering of what is ſent, according to its number and denomination.

5. The communication and correſpondence with the ſeveral loan-offices in the Colonies.

6. The drawing up the inſtructions for the ſame.

7. The receiving from theſe offices, accounts of the iſſuing the paper bills, theſe accounts to contain, 1. Account of the numbers and dates of bills iſſued. 2. State of the mortgages and ſecurities. 3. Account of intereſt received. 4. Account of intereſt paid for depoſited money. 5. Account of government drafts paid by the loan-office, and ſalaries paid to its ſeveral officers. 6 Account of bills exchanged, for thoſe that are over-worn. 7. Account of receipts of principal money by inſtalments, &c.

And in general, the Commiſſioners from the monthly reports of the ſeveral offices in America, of every branch of their duty, are to form monthly abſtracts and reports for the treaſury, of the ſtate of the money current, of the amount of the intereſt money in the loan-offices, at the government's diſpoſal, of the ſtate of each office, and the

farther regulations from time to time neceſſary to be made, either by orders from the treaſury, inſtructions from the Commiſſioners, or further legal powers, or directions by act of parliament, or by inſtructions neceſſary to be ſent to the governors in America, recommending acts of aſſembly proper to be made in that country.

The Commiſſioners are alſo to draw up directions and inſtructions to the *Inſpectors*, whoſe office will be hereafter deſcribed.

And they are to ſuperintend all the other parts of the adminiſtration and execution of this ſcheme, as will be more particularly pointed out hereafter, in the deſcriptions of the ſeveral offices and officers in America, with their reſpective duties.

Loan-Office in each province.

To conſiſt of *Truſtees*, *Solicitor*, and *Clerk*. The province to be divided into diſtricts. A large province into eight diſtricts, a ſmall province into fewer.

Each diſtrict to have a Truſtee appointed *out of its own reſident inhabitants*, one who is a freeholder that can give ſufficient ſecurity to the crown within the province. So that

that the loan-office of the largeſt province will conſiſt of eight Truſtees, and the ſmaller in proportion to their diſtricts, into which they are divided, ſome not having more than two.

The Truſtees to be appointed by act of aſſembly, and upon their appointment to qualify themſelves, by giving the ſecurity required to the crown, and taking the uſual oaths (or affirmation) and oath (or affirmation) of office.

Each Truſtee to have 100 *l.* *per annum.* out of the intereſt ariſing by the loans of the bills.

The principal acting Truſtee to reſide in the capital of the province where the office is to be kept, and to have 200 *l.* or leſs in ſome provinces, for his conſtant attendance, and the incidents of office, beſides his ſallary in common with the reſt.

The Truſtees to be appointed, only for the term of five years, at the expiration whereof, they are to account fully to the governor in council, aſſiſted by one of the inſpectors hereafter deſcribed, and deliver up all books, deeds, depoſited caſh, &c.

to their ſucceſſors, upon which they are to receive their quietus.

All the Truſtees are to meet once a month at the office, to ſign the bills to be iſſued, to conſider the applications for money, examine the goodneſs of the ſecurity offered, and fix the ſum to be lent on each ſecurity, not leſs than a majority of the Truſtees to order the loans, and not leſs than two to ſign and date the bills to be iſſued. They are alſo to take charge of, and keep in ſome ſafe place, the ſecurity deeds mortgaged, and *they* are to chuſe a perſon, ſkilled in the law of titles, to be their *Sollicitor*, who is to be paid by the fees ariſing in the office, viz. 20*s*. on every mortgage, for which he is to examine, and make extracts of the titles or ſecurities offered, for the inſpection of the *Chief Juſtice* of the province, if referred to him, and of the Truſtees; to prepare the mortgage and counterpart, with the bond and warrant of attorney, and to record the mortgage. He is alſo to keep a book of applications, noting them down in the order of time in which they are made, the ſum deſired, and the ſecurity offered in mortgage. He is to get blank mortgages printed, of a preſcribed form. There are to be triplicates of each mort-

mortgage, the firſt is to be executed by the mortgager, and lodged in the office, the ſecond, an exact copy delivered to the mortgager for his direction, as it contains the times and proportions of payments, both of inſtallments and intereſt, the third to be kept in a bound book and there made the record.

The clerk is alſo to be appointed by the Truſtees. He keeps a book of allowances, ſo called, becauſe therein is put down what ſums the Truſtees think proper to allow or lend to each applyer, according to their opinion, of the ſecurity offered. He alſo computes the quotas or inſtallments and intereſt, making together, the ſum to be paid each year, by the mortgager, and gives a copy thereof to the Solicitor, to be by him, after the approbation of the Truſtees given to it, inſerted in the mortgage. He keeps alſo a day book, in which is noted,

The emiſſions and receipts of each day, viz.

The ſums lent in mortgage, and to whom.

The ſums received from each mortgager, diſtinguiſhing principal and intereſt.

The

The ſums depoſited in the office, for which 4 *per cent.* is to be allowed by the office.

The returning of ſuch ſums, with intereſt paid.

The ſums of new bills exchanged for old.

The drafts of government for intereſt money, as paid by the Truſtees.

The Truſtees Salaries, when paid, and the allowance for incidents.

N. B. The perſon bringing any money bills to be depoſited in the office, for the purpoſe of receiving the 4 *per cent.* is to prepare two ſchedules of ſaid bills, one to be ſigned by the acting Truſtee, and delivered to him, the other to be ſigned by him and delivered into the office, to be kept by the Truſtees. And no ſum under 100 *l.* is to be depoſited on the terms of receiving intereſt, and *the intereſt muſt not commence till one month after the depoſite made.*

The clerk is to keep a ledger, in which the day book accounts are to be poſted up, under their reſpective heads.

The

The Truſtees, from theſe books, &c. are to form monthly abſtracts of the whole ſtate of the currency, and the buſineſs of the office, and to ſend the ſame ſigned by a majority of the whole number, to the commiſſioner's office in England, in order that the commiſſioners may form ſtates from time to time, as the treaſury ſhall require, of the whole of the currency throughout the continent, as well as of the ſtate of each office in the reſpective Colonies.

Proviſion for check and control of the execution of the office in America.

1. The direction and inſtructions of the commiſſioners reſiding in England.

2. Two *Inſpectors* to be commiſſioned by the treaſury, to act under their inſtructions, and the inſtructions of the commiſſioners, and to report to them. They are to visit all the offices in America at leaſt once a year, and to inſpect the accounts, caſh, &c. as often as they ſhall ſee occaſion, or ſhall be directed by their ſuperiors, and to join with the governor and council of each province in the auditing of the accounts of the office. And, if upon any of theſe inſpections, an inſpector ſhall diſcover any miſmanagement which requires immediate remedy, he is not

not only to report to the commiſſioners in England, but to the governor of the province, and if it appears to the governor and council neceſſary, the governor to call together the aſſembly immediately, in order to the appointing new Truſtees, and to order, by advice of council, the proſecution of the delinquent Truſtees, to the forfeiture of their ſecurities, and ſuch other penalties as they may have incurred.

3. The governor and council (the inſpector aſſiſting) to audit the accounts of the loan-office within each province annually. The governor and council to be allowed for their trouble.

N. B. In thoſe provinces where the governor is not appointed by the crown, perhaps ſome addition may be thought proper to be made to this board for auditing.

4. A committee of the aſſembly to inſpect the ſtate of the office, for their own ſatisfaction and information, that in caſe they diſcover any miſmanagement or delinquency, they may apply to the governor, that proper ſteps may be taken to remedy the ſame.

When the accounts are to be inſpected and ſettled, the Truſtees will be charged with

with the loan money put into their hands, and diſcharge themſelves by producing mortgages for the whole, or for part, and the remainder in bills.

They will be charged with the new bills put into their hands, to exchange ſuch as by wearing are become unfit for farther currency, and diſcharge themſelves by producing ſuch worn bills for part, and the remainder in new bills unexchanged.

They will be charged by the account, of intereſt received, and diſcharge themſelves by their ſalaries, by government draughts which they have paid, by intereſt they have paid on ſums depoſited, and by producing the remainder in bills in their hands.

They will be charged with the parts of the principal ſums received yearly, as inſtalments, and diſcharge themſelves by mortgages on which the ſame was remitted, and the remainder in bills.

They will be charged with the ſums depoſited in their hands, to bear intereſt, and diſcharge themſelves by producing receipts for what they have returned, and for intereſt paid, and bills in their hands for the ſums they have not returned.

Having

Having now gone through the conſideration of every point of internal adminiſtration, let us next review thoſe external relations by which the intereſt of the American ſettlements ſtand connected with the Indian country and its inhabitants. Our Colonies muſt neceſſarily have connections both of trade and politicks with theſe people, of a nature different from any other, as they are are planted in countries inhabited by a race of people, who differ in their circumſtances and in their politicks from any other nation with whom there remains, either in hiſtory or on record, any example of alliance.

Perhaps it may not be unentertaining, I am ſure it is neceſſary to the true knowledge of Indian affairs, to take up this ſubject ſomewhat higher than has been uſual in the ordinary way of conſidering it.

The different manner in which this globe of earth is poſſeſſed, and occupied by the different ſpecies of the human race which inhabit it, muſt form the ſpecific difference in their intereſts and politicks.

The human race, which is at preſent found on this earth, may be preciſely divided into three families, generically, and in their eſſential properties, diſtinct and different each from

from the other. And, for aught I know, it is to this natural truth, that the heaven-directed pen of the author of the books of Moſes may refer, when he gives preciſely and only three ſons to Noah. Theſe three different ſpecies, or race, are—The white race—the red—the black. It is not barely the colour of theſe two firſt, which diſtinguiſhes them; the form of their ſkull, and their hair, where there has been no mixture, is ſpecifically different from each other; and a true Indian will not judge by any other diſtinction: the black race has wool inſtead of hair, as alſo a form of ſkull different from each.

Theſe books, after having given a philoſophical account, cloathed in drama, of the origin of things, ſeem to confine their real narrative to the hiſtory of the white family, to that race of people who have been land-workers from the beginning, who, wherever they have ſpread themſelves over the face of this globe, have carried with them the art of cultivating vines, and fruit trees—and the cultivation of bread corn; who, wherever they have extended themſelves, have become ſettlers, and have conſtantly carried with them the ſheep, goat, oxen and horſe, domiciliated and ſpecially applied to the uſes and labour of a ſettlement.

Of the black family I ſay nothing in this place, as not concerned in the preſent conſideration.

The red family, wherever found, are wanderers. The Tartars are in one part wandering herdſmen, and in other parts hunters and fiſhermen. The American inhabitants, Indians, as we call them, from the word Anjô, or Ynguo, ſignifying a man in their language, are the ſame race of people from one end of the continent to the other; and are the ſame race or family as the Tartars, preciſely of the ſame colour, of the ſame form of ſkull, of the ſame ſpecies of hair,—not to mention the language and their names.

America, in its natural ſtate, is one great foreſt of woods and lakes, ſtocked not with ſheep, oxen, or horſes; not with animals of labour, and ſuch as may be domiciliated, but with wild beaſts, game and fiſh; vegetating not with bread-corn, but with a ſpecies of pulſe, which we call maize, of which there is great doubt whether it be indigenous or not.—All therefore that this country afforded for food or raiment muſt be hunted for. The inhabitants conſequently would naturally be, as in fact they were, *not land-workers, but hunters; not ſettlers, but wanderers.*

derers. They would therefore, conſequently, never have, as in fact they never had, any idea of property in land, of that property which ariſes from a man's mixing his labour with it. They would conſequently never have, as in fact they never had, any one communion of rights and actions as extended to ſociety; any one civil union; and conſequently they would not ever have any government. They know no ſuch thing as adminiſtrative or executive power, properly ſo called: they allow the authority of advice, a kind of legiſlative authority; but there is no civil coercion amongſt them: they never had any one collective actuating power among the whole, nor any magiſtrate or magiſtrates to execute ſuch power.

The race of white people migrating from Europe, ſtill continue land-workers, and have made ſettlements in parts of America which they occupy, and have tranſported thither bread-corn, ſheep, oxen, horſes, and other uſually domeſtic animals, that are domiciliate with theſe ſettlers.

They are a community—they are a ſociety——they live under government, and have a fixed property in their lands, have a fixed permanent intereſt, which muſt ſubſiſt *under a continued ſeries of ſecurity.* The lo-

cality of the labour of theſe ſettlers, neceſſarily produces a reciprocation of wants and an intercommunion of ſupply, by exchange of mutual neceſſaries. This alſo leads to an intercourſe of commerce with others, who are not immediately within their community—And hence ariſes a commercial intereſt to theſe ſettlers.

From the European deſire of having the furs and peltry of the Indian hunters, and from the Indian deſire of having the more uſeful and neceſſary tools and inſtruments of improved life, an artificial reciprocation of wants has ariſen between the European ſettlers, and the original inhabitants of America, which hath gradually extended itſelf to many articles not at firſt called for—— And from this intercourſe of commerce has ariſen a neceſſary relation of politicks between them.

The only true ſpirit which ought to actuate theſe politicks, muſt ariſe from a due knowledge of the circumſtances and intereſts of each, and from a conſtant invariable attention to that compoſite intereſt which is formed by their alliance.

The intereſt of a community of ſettlers muſt lye in *a permanent ſeries of ſecurity* to their

their cultured lands, as the making ſettlements is by the ſucceſſive yearly application of repeated labour, and of its eventual future effect. Settlers and landworkers want but ſmall tracts of land; but muſt have a fixed and permanent local property therein. A nation of hunters require a much greater extent of country, in the proportion that the wide extended produce of a hunt, bears to the local bounded produce of a farm or ſettlement; ſo that the Indian property of country conſiſts of two ſorts, their dwelling lands and their hunt.

The intereſt of a tribe of wanderers lyes in the protection and ſupport of the aged, of the women and children—under the temporary locations of dwelling, which the ſeverity of the winter ſeaſon, the occaſion of the procuring pulſe in the ſeaſon of vegetation, and the times of parturition, render neceſſary even to wanderers.

As fixed regulations and protection of trade, muſt be the eſſential ſpirit of the politicks and the law of nations to a commercial nation *, ſo an exact and ſtrict obſerv-

 ance

* Hunting being but the amuſement, the diverſion of a nation of ſettlers, the rights and laws of it may not appear as national points—but to a nation of hunters

ance of the laws of ſporting, the protection of the game, and the moſt rigid ſanction of the *hunt*, (better perhaps underſtood by our ſportſmen than our politicians) become the *laws of nations* to an *hunting nation*.

From theſe principles let us carry our conſiderations into facts.

The European landworkers, when they came to ſettle in America, began trading with the Indians; * obtained leave of the In-

ters theſe become the national intereſts and the laws of nations.—A violation of theſe laws of nations; as ſubſiſting between nations of hunters, was the cauſe of the war between the Five-nation confederacy, and the Oïlinois. The Ohio hunt, to the ſouth-eaſt of lake Erie, was common to theſe nations; the laws of the hunt required, that at each beaver-pond, the Indians ſhould leave a certain number of males and females; the Oïlinois, on ſome occaſion of pique, deſtroyed all. The Five-nations declared war againſt the Oïlinies. The Indian war ends not but in the total reduction of the one or the other. The Oïlinois were totally conquered. The conquered country, as well as the hunt, became the right of the Five-nations, and were, amongſt the reſt of their lands, put, by them, into the hands of the Engliſh in truſt.

* Perhaps New-England may be an exception: The Indians began an unjuſt war againſt them; they conquered theſe Indians, and their claim is beſt, as well as juſtly, founded in conqueſt, which the Indians acknowledge.

dians to cultivate ſmall tracts as ſettlements or dwellings. The Indians having no other idea of property, than what was conformable to their tranſient temporary dwelling-places, eaſily granted this. When they came to perceive the very different effect of ſettlements of landworkers creating a permanent property always extending itſelf, they became very uneaſy; but yet, in the true ſpirit of juſtice and honour, abided by the effects of conceſſions which they had made, but which they would not have made, had they underſtood beforehand the force of them.

From this moment the politics of the Indians were fixed on, and confined to, two points. The guarding their dwelling lands and their hunts from the encroachments of the European ſettlers; and the perpetually labouring, to our utter ſhame, in vain, to eſtabliſh ſome equitable and fixed regulations in the trade carried on between them and the Europeans.

The European encroachments, not only by the extent of their ſettlements, but by their preſuming to build forts in the Indian dwelling lands, and in the territories of their hunts, without leave, or by colluſion; and the impoſitions and frauds committed againſt the Indians in trading with them, has been

the occaſion of conſtant complaint from the Indians, and the invariable ſource of Indian hoſtilities: and yet even theſe might have been ſurmounted, were it not that we have conſtantly added an aggravation to this injuſtice, by claiming a DOMINION in conſequence of a *landed poſſeſſion*. Againſt this the free ſpirit of an Indian will revolt, to the laſt drop of his blood: This will be perpetual, unremitted cauſe of war to them againſt us. Againſt it, they have at all times, and upon all occaſions proteſted, and they will never give it up. As long as we keep up this uſeleſs, faithleſs claim of dominion over them, ſo long ſhall we be embroiled in war with them. The European power may perhaps finally extirpate them, but can never conquer them. The perpetually increaſing generations of Europeans in America, may ſupply numbers that muſt, in the end, wear out theſe poor Indian inhabitants from their own country; but we ſhall pay dear, both in blood and treaſure, in the mean while, for our horrid injuſtice. Our frontiers, from the nature of advancing ſettlements, diſperſed along the branchings of the upper parts of our rivers, and ſcattered in the diſunited vallies, amidſt the mountains, muſt be always unguarded, and defenceleſs againſt the incurſions of Indians. And were we able, under an Indian war, to advance our

ſettle-

ſettlements yet farther, they would be advanced up to the very dens of thoſe ſavages. A ſettler wholly intent upon labouring on the ſoil, cannot ſtand to his arms, nor defend himſelf againſt, nor ſeek his enemy: Environed with woods and ſwamps, he knows nothing of the country beyond his farm: The Indian knows every ſpot for ambuſh or defence. The farmer, driven from his little cultured lot into the woods, is loſt: the Indian in the woods, is every where at home; every buſh, every thicket, is a camp to the Indian, from whence, at the very moment when he is ſure of his blow, he can ruſh upon his prey. The farmer's cow, or his horſe, cannot go into the woods, where alone they muſt ſubſiſt: his wife and children, if they ſhut themſelves up in their poor wretched loghouſe, will be burnt in it: and the huſbandman in the field will be ſhot down while his hand holds the plough. An European ſettler can make but momentary efforts of war, in hopes to gain ſome point, that he may by it obtain a ſeries of ſecurity, under which to work his lands in peace: The Indian's whole life is a warfare, and his operations never diſcontinued. In ſhort, our frontier ſettlements muſt ever lie at the mercy of the ſavages: and a ſettler is the natural prey to an Indian, whoſe ſole occupation is war and hunting. To countries circum-

ſtanced as our Colonies are, an Indian is the moſt dreadful of enemies. For, in a war with Indians, no force whatever can defend our frontiers from being a conſtant wretched ſcene of conflagrations, and of the moſt ſhocking murders. Whereas on the contrary, our temporary expeditions againſt theſe Indians, even if ſucceſsful, can do theſe wanderers little harm. Every article of their property is portable, which they always carry with them—And it is no great matter of diſtreſs to an Indian to be driven from his dwelling ground, who finds a home in the firſt place that he ſits down upon. And of this formidable enemy, the numbers, by * the lateſt accounts, are 23105 fighting men.

If we entertain an idea of conqueſt, in ſupport of this ambitious folly of dominion, we muſt form ſuch a ſeries of magazines and entrepôts for ſtores, ammunition and proviſions; we muſt maintain in conſtant employ ſuch a numerous train of waggons for the roads, ſuch multitudes of boats and veſſels for the waters; we muſt eſtabliſh ſuch a train of fortified poſts; we muſt ſupport ſuch a numerous army; we muſt form and execute ſuch an enlarged and comprehenſive ſyſtem of command, as ſhall give us military poſſeſſion of the whole Indian coun-

* This refers to the year 1763.

try.

try. Let now any ſoldier or politician conſider the enormous endleſs expence of all this conduct, and then anſwer to what profitable purpoſe ſuch meaſure leads, which may in a much better and juſter way be obtained.

If our government conſiders this well, and will liſten to thoſe who are beſt verſed in Indian affairs, it will be convinced that honeſty is the beſt policy; and that our dominion in America, will be beſt and ſureſt founded in faith and juſtice, toward the remnant of theſe much injured natives of the country.

In this hope, and with this view, I will endeavour to ſtate the Indian rights and our duty toward them; and to point out that line of conduct, which leads to it—And firſt of the Kenunctioni, or the Five-nation confederacy.

The Indian lands are of two kinds—— Their dwelling land, where their caſtles are, and their hunting ground. The dwelling lands of the Kenunctioni, or the Five-nation confederacy, is called Kenunctionîga, and is at the top or higheſt part of the continent, from whence the waters run every way—By the waters of Canada into the gulph

gulph of St. Laurence, by all the rivers of the Engliſh Colonies into the Atlantic ocean, by the waters of the Miſſiſſippi into the gulph of Mexico. They may, in a general manner, be thus deſcribed, by a line run from near Albany, north-weſtward, along the Mohawk river on the north ſide of it, north round Oneida lake, to the north eaſt corner of lake Ontario, thence along the lakes to Canahôga on lake Oſwego or Erie; thence ſixty miles directly back into the country; thence to Shamôkin, on the Suſquehanna river; thence along the Cuſhïêtung mountains; thence again to the lower Mohawk caſtles. The Indians themſelves deſcribing, under confidence, to a friend of mine at Onondaga, this their ſituation, ſaid, " That it has " many advantages ſuperior to any other " part of America. The endleſs mountains ſeparate them from the Engliſh, all " the way from Albany to Georgia. If " they ſhould have any deſign againſt the " Engliſh, they can ſuddenly come down " the Mohawk's river, the Delaware, the " Suſquehanna, and Potomac, and that " with the ſtream. They have the ſame " advantage of invading the French, by " the waters of the river St. Lawrence, " Sorel, &c. If the French ſhould pre- " vail againſt this country, they can, with " their old men, wives and children, come

" down

" down the ſtreams to the Engliſh. If the " Engliſh ſhould prevail in attacking their " country, they have the ſame conveyance " down to the French; and if both ſhould " join againſt them, they can retire acroſs " the lakes."

Their hunting lands are—*Firſt*, Couxſachraga, a triangle, lying on the ſouth-eaſt ſide of Canada, or St. Lawrence river, bounded eaſtward by Saragtoga, and the drowned lands; northward, by a line from Regiôchne point (on lake Champlain, or, as the Indians call it, Caniaderiguarûnte, the lake that is the gate of the country) through the Cloven rock, on the ſame lake, to Oſwegatchie, or la Galette; ſouth-weſtward by the dwelling lands of the Mohawks, Oneidas, and Tuſcaroraos.

Secondly, Ohio, all that fine country (and therefore called Ohio) lying on the ſouth and eaſt ſides of lake Erie, ſouth-eaſt of their dwelling lands.

Thirdly, Tienckſouckrondtie; all that tract of country lying between the lakes Erie and Oïlinois.

Fourthly, 'Scaniaderiada, or the country beyond the lake; all that tract of country lying

lying on the north of lake Erie, and north-weſt of lake Ontario, and between the lakes Ontario and Hurons.

The right of the Five-nation confederacy to their dwelling lands and the hunting ground of Couxſachrága, and even down to the bottom of lake Champlain, was never diſputed. The lands to the northward of Regiôchne, and la Galette, have long ſince been ceded to the Canada Indians as an hunting ground.

In the year 1684, the Five nations finding themſelves hard preſſed by the French and their Indians, did, by a treaty at Albany, put the lands and caſtles of the Mohawks and Oneidas *under the protection of the Engliſh government:* and the Engliſh accordingly undertook *the truſt* to guarantee them to theſe Indians. And as the external mark, by which this act and deed ſhould be anounced, the Indians deſired that the duke of York's arms might be affixed to their caſtles.

The right of the Five-nation confederacy to the hunting lands of Ohio, Tieûck-ſouchrondite and 'Scaniaderiada, by the conqueſt they had made in ſubduing the Shaöanaes, Delawares, (as we call them) Twic-

twes

twes and Oïlinois, may be fairly proved as they ſtood poſſeſſed thereof, at the pace of Reſwick, in 1697.

In the year 1701, they put all their hunting lands under the protection of the Engliſh, as appears by the records, and by the recital and confirmation thereof in the following deed.

In the year 1726, the Seneccas, Cayougaes and Ononda-agaes acceded to the ſame terms of alliance, in which the Mohaws and Oneidas were already——So that the whole of the dwelling and hunting lands of the Five-nation confederacy were put under the protection of the Engliſh, and held by them IN TRUST, for and to the USE of theſe Indians and their poſterity.

Copy of Agreement with the Sachems of the Five Nations.

TO all people to whom this preſent inſtrument of writing ſhall come, Whereas the Sachems of the Five Nations did, on the nineteenth day of July, One thouſand ſeven hundred and one, in a conference held at Albany, between John Nanfan, Eſq; late lieutenant-governor of new-York, give and render up all their land where the beaver-hunting

hunting is, which they won with the ſword, then 80 years ago, to Coorakhoo *, our great King, praying that he might be their protector and defender there, for which they deſired that their ſecretary might then draw an inſtrument for them, to ſign and ſeal, that it might be carried to the King, as by the minutes thereof, now in the cuſtody of the ſecretary for Indian affairs at Albany, may fully, and at large appear.

WE, Kanakarighton and Shanintſaronwe, Sinneke Sachems; Ottſoghkoree Dekaniſoree and Aenjeueratt, Cayouge Sachems; Raclyakadorodon and Sadageenaghtie, Onondaga Sachems, of our own accord, free and voluntary will, do hereby ratify, confirm, ſubmit and grant; and by theſe preſents do (for ourſelves, our heirs and ſucceſſors, and in behalf of the whole Nations of Sinnekes, Cayouges and Onondages) ratify, confirm, ſubmit and grant unto our moſt Sovereign Lord George, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c. his heirs and ſucceſſors for ever, all the ſaid land and beaver-hunting, *to be protected and defended by his ſaid majeſty*, his heirs and ſuc-

* It is by this name that they mean the King of England.

ceſſors,

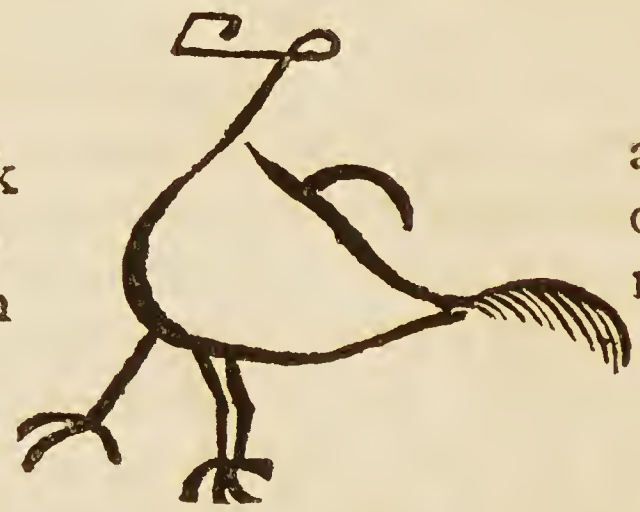
ceſſors, *to and for the* USE *of us, our heirs and ſucceſſors, and the ſaid three Nations*; and we do alſo of our own accord, free and voluntary will, give, render, ſubmit and grant, and by theſe preſents do, for ourſelves, our heirs and ſucceſſors, give, render, ſubmit, and grant unto our ſaid Sovereign Lord King George, his heirs and ſucceſſors for ever, all that land lying and being ſixty miles diſtance taken directly from the water, into the country, beginning from a Creek called Canahôge, on the lake Oſwego, all along the ſaid lake, and all along the narrow paſſage from the ſaid lake to the falls of Oniâgara, called Canaquaraghe, and all along the river of Oniâgara, and all along the lake Cataraqui to the creek called Sodons, belonging to the Sinnekes, and from Sodons to the hill called Tegechunckſerôde, belonging to the Cayouges, and from Tegechunckſerôde to the creek called Cayhunghâge, belonging to the Onondages; all the ſaid lands being of the breadth of ſixty Engliſh miles as aforeſaid, all the way from the aforeſaid lakes or rivers, directly into the country, and thereby including all the caſtles of the aforeſaid three Nations, with all the rivers, creeks and lakes, within the ſaid limits, *to be protected and defended by his ſaid majeſty, his heirs and ſucceſſors for ever, to and for our*

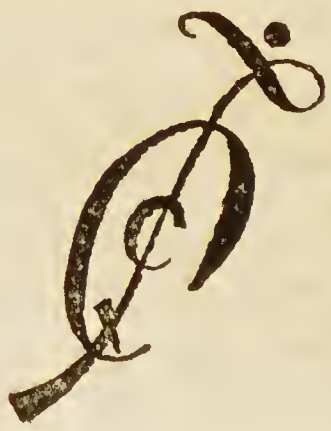
USE,

USE, *our heirs and ſucceſſors, and the ſaid three nations.*——

In teſtimony whereof, we have hereunto ſet our marks and affixed our ſeals, in the city of Albany, this fourteenth day of September, in the thirteenth year of his majeſty's reign, *Annoque Domini* 1726.

The mark of Raclyakadorodon. a Sachem of the onondages. (L. S.)

The mark of Kanakarighton  a Sachem of the Sinnekes. (L. S.)

The mark of Otſoghkoree,  a Sachem of the Cayouges. (L. S.)

The

The mark of Sadegeenaghtie, a Sachem of the Onondages. (L.S.)

The mark of Dekaniſoree, a Sachem of the Cayouges. (L. S.)

The mark of Shanintſaronwee, a Sachem of the Sinnekes. (L. S.)

The mark of Aenjeweratt,

a Sachem of the Cayouges. (L. S.)

Signed, ſealed, and delivered,
in the Preſence of us

Philip Livingſton,
Peter Vanbrugh,
Mynderſt Schuyler,
Lawrence Clauſen.

Secretary's Office, New-York. The preceding is a true copy of the Record in Lib. Patents, Numb. 9. p. 253, 254. Examined and compared therewith by

GEO. BANYER, Deputy Secretary.

Inſtead of executing *this truſt* faithfully and with honour, by extending to the Indians our civil protection againſt the frauds of the Engliſh, and our military protection againſt the attempts of the French, we have uſed this truſt only as a pretence to *aſſume a dominion* over them—We have ſuffered the Engliſh ſettlers to profit of every bad occaſion to defraud them of their lands—We have never

never made any effectual regulations to prevent their being defrauded in their trade; and until our own intereſt appeared to be affected, we abandoned them to their own chance and force, oppoſed to the ſtrength of a powerful enemy. Nay, when at laſt we thought neceſſary for the ſake, not of national faith and honour, for the ſake, not of theſe our faithful allies, but for the ſake of our own ſafety and intereſt to interfere, in oppoſing the French encroachments, we took it up as diſputing the empire of America with the French; not as protecting and guarding the Indian lands and intereſt to their uſe, agreeable to the ſacred truſt by which we were bound.—And thus theſe ſavages (as we to our own ſhame call them) repeatedly told us, " That both we and the " French ſought to amuſe them with *fine* " *tales* of our ſeveral upright intentions; " that both parties told them, that they " made war for the protection of the Indian " rights, but that *our actions* plainly d ſco- " vered that the war was only a conteſt " who ſhould become maſters of the coun- " try, which was the property neither of " the one nor the other." Since we have driven the French government from America, we have confirmed this charge of the Indians againſt us, by aſſuming that dominion which in faith and juſtice we cannot

ſay we have gained over the Indians, which, in fact, we have not gained, and which, be it remembered, will coſt more blood and treaſure before we do gain it, than it is for the honour and intereſt of Great-Britain to expend in ſo bad and uſeleſs a cauſe. While theſe poor tribes of hunters remain, it will be our own fault if they do not remain in perfect harmony and good alliance with us. As hunters, their intereſt can never interfere with ours, as ſettlers; but, on the contrary, will become the ſource of the natural and moſt profitable trade to us as traders. They are continually wearing away, and as they diminiſh or retire, they cede their lands to us in peace; which we, thus in time as faſt as we can really want them, may poſſeſs in right and juſtice, untainted with the impeachment of having been gained by murder and fraud. While therefore we do remain a great and juſt nation, as we pride ourſelves Great-Britain is, we ſhould abhor the black baſe thought of uſing the power which providence hath given us, to the ruin and deſtruction of theſe brave and free people; of theſe people who gave us our firſt ſettlement in this country, and have lived with us, except under ſome temporary interruptions, in a ſeries of faithful alliance.

If

If theſe conſiderations, taken up in the courſe of that general review of the Colonies, and of the adminiſtration of their affairs, which I now publiſh, were intended as an expreſs treatiſe on Indian affairs, I ſhould think it right to examine all the complaints and ſeveral claims of juſtice which the Five-nations have made, and have repea ed for many years, which I would found firſt on extracts from the records of Indian affairs, and ſecondly, on the hiſtory of the landed patents, and thirdly, on the occaſions taken to erect, without their leave, forts on the Indian lands, which meaſure the Indians always conſider as an act of dominion. In this general view I ſhall only point out that ſhameful patent of Ka-y-adaroſſeros above Albany: that pretence of claim by the corporation of Albany for the Mohawk-flats, the very reſidence of the Mohawks, and ſ me others on the carrying place, at the head of the Mohawk river——all which ought to be taken into immediate conſideration, that juſtice may be done both to the Indian and European claimants; and that the matter may not remain perpetual cauſe of umbrage, and perhaps the ſource of war. Government ought alſo very ſeriouſly to reviſe the principles on which they are now endeavouring to take poſſeſſion of the Indian country by forts and

garisons; built many within the Indian dwelling lands, and many within their hunting lands, and on the passes and communications of these. It is undoubtedly right to maintain the command of that country; but there is a way to do it with safety and justice. The measures we are taking by force will be found to have neither the one nor the other in them; nor do I see how common prudence can adopt the enormous charge to which such measures must lead.

We have seen that Sir William Johnson, although he took Niagara *from the French* by force of arms, never considered this as a conquest of these lands *from Indians*; but has, agreeably to his usual prudence and his perfect knowledge of Indian affairs, obtained by formal treaty, a cession of these lands from the Indians to the crown of Great-Britain. The wisdom, as well as the success of this example, ought to lead our politicks to the same conduct in every other case, where we have built or obtained forts within their lands, especially as many of them were built under express promise of their being dismantled as soon as the war should cease: and as the Indians were expressly and solemnly promised to have a satisfaction given to them for the use of these lands.

The

The Shawänefe and Delawares are more immediately connected with the province of Penſylvania; and although, as ſubdued, they are under obedience to the confederacy of the Five-nations; yet, under tutelage and protection of the confederacy, they poſſeſs their rights to their own country. Was this, as I have ſaid, a particular treatiſe on Indian affairs, I might here point out "*the cauſes of the alienation of the Delawares and Shawäneſe Indians from the Britiſh intereſt, by extracts from the public treaties, and other authentic papers relating to the tranſactions between the government of Penſylvania and the ſaid Indians for near forty years paſt,*" as ſet forth in a memoir which I have had by me for many years. I could alſo from a ſeries * of letters for ten years, from Monſieur de Vaudreüil, while governor of Louiſiana, to his court, point out theſe neglects and errors, as alſo the manner in which the French profited of thoſe our errors, by which we loſt the Cherokees, and other ſouthern tribes.

After what has been explained, it will be ſufficient here to ſay, that, 1ſt, Doing juſtice

* Theſe letters in manuſcript are authentic; but I am not at liberty to ſay how they came into my poſſeſſion.

to our faith and honour, by treating the Indians according to the real ſpirit of our alliances with them; 2dly, That doing the Indians juſtice in their lands, and 3dly, giving up that idle, uſeleſs claim of dominion over them, are points abſolutely and indiſpenſibly neceſſary to be adopted into our politicks, unleſs we have ſeriouſly taken the reſolution to force our way by war. Until theſe points are adopted, we never ſhall have peace——And it deſerves thorough and mature deliberation how we engage to ſettle and poſſeſs America by war.

Theſe meaſures of ſound policy once fixed upon, the next ſtep is to eſtabliſh an Adminiſtration for the conducting Indian affairs—This part of the plan which I propoſed is in part adopted, by dividing the management of Indian affairs into two Intendencies—one for the northern, the other for the ſouthern nations, but, as every thing which I could ſay further on this head hath been ſome years paſt ſtated in the memorial annexed to theſe papers, I will here refer the reader to that memorial on theſe points. The meaſures recommended therein I have by an opportunity of comparing them with the events of eight ‡ years, found to be ſuch as I do moſt ſincerely wiſh may be carried into execution. And if a

‡ This refers to the year 1755.

private

private perſon might preſume to obtrude advice, which has not formerly been neglected, when the affairs of the plantations were full as happily adminiſtered, as they have been of late. I would now venture to recommend the conſideration of theſe meaſures to thoſe whoſe duty it is to act upon theſe matters. When theſe matters ſhall be ſettled as they ought to be, then it may be time to take up the conſideration of proper regulations for the Indian trade; and when that time comes, if a plan, which I have accidentally ſeen, be carried into execution, I would venture to ſay, that every thing which can or ought to be done in Indian affairs will be effected.

If with the ſame ſpirit, guided by the ſame principles *, a reviſion was made of the laws of trade, ſo far as they reſpect the Colonies, it would anſwer more wiſe ends of government, and more the intereſt of the governed, both here as well as in the Colonies, than any endeavour, even though ſucceſsful, to carry the preſent laws into execution.

The principles on which the act of navigation is founded are juſt, and of ſound po-

* This hath been in part done by the late American revenue act.

licy ;

licy; but the application of them, by the modes preſcribed, as the laws now ſtand, to the preſent ſtate of the Colony trade, is neither founded in juſtice or prudence. Any ſpirit that would force this application, would injure the principles themſelves, and prove injurious to that commercial intereſt, which thoſe very acts of trade mean to ſecure to Great Britain: whereas, upon a due reviſion of thoſe laws, it would appear that there are means of producing this ſame end conſiſtent with the particular intereſt of the Colonies, and what would carry the general commercial intereſt of the mother country to the utmoſt extent that it is capable of.

The laws of trade reſpecting America were framed and enacted for the regulating *mere plantations*, tracts of foreign country, employed in raiſing certain ſpecified and enumerated commodities, ſolely for the uſe of the trade and manufactures of the mother-country—the purchaſe of which, the mother-country appropriated to itſelf. Theſe laws conſidered theſe plantations as a kind of farms, which the mother country had cauſed to be worked and cultured for its own uſe. But the ſpirit of commerce, operating on the nature and ſituation of theſe external dominions, beyond what the mother country or the Coloniſts themſelves ever thought

thought of, planned, or even hoped for, has *wrought up theſe plantations to become objects of trade*; has enlarged and combined the intercourſe of the barter and exchange of their various produce, into a very complex and extenſive commercial intereſt: The operation of this ſpirit, has, in every ſource of intereſt and power, raiſed and eſtabliſhed the *Britiſh government on a grand commercial baſis*, has by the ſame power to the true purpoſes of the ſame intereſt, extended the Britiſh dominions through every part of the Atlantic Ocean, to the actually forming A GRAND MARINE EMPIRE, if the adminiſtration of our government, will do their part, by extending the Britiſh government to whereſoever the Britiſh dominions do extend. If, on the contrary, we are predetermined to carry into ſtrict and literal execution, the navigation act, and other laws reſpecting the plantation trade—without reviewing and conſidering what the very different circumſtances of the Colonies now are, from what they were when they were firſt ſettled, merely as plantations, and when theſe laws were firſt made,—we muſt determine to reduce our Colonies again to ſuch mere plantations: We muſt either narrow the bottom of our commercial intereſt, to the model of our plantation laws, or we muſt enlarge the

ſpirit of our commercial laws, to that latitude to which our commercial intereſt does actually extend. Thus ſtands the fact. This is the truth. There is no other alternative. But if we would profit of them in thoſe great commercial benefits, to thoſe great political purpoſes, which they are capable to produce; which they lead to; which the whole ſtrain of our politics have, for many years, taught us to value ourſelves upon; and which have really been the ſource of all our wealth and power; we muſt examine thoroughly the ſtate of this commercial intereſt, we muſt make a ſincere, unprejudiced and candid review of theſe laws of trade,—and by true and more enlarged principles, model them on the ideas of regulating the conduct and the intereſt, of various and widely extended parts of a one great commercial dominion.

I will firſt deſcribe the circuit of the North American commerce, and then ſuggeſt ſome ſuch meaſures as may tend to produce a happy eſtabliſhment of our trading intereſt, on true commercial principles. As the matters contained in the following repreſentation, are fairly ſtated, according to the truth and fact, and the conſequences thence deduced, are ſuch as actual experi-

ence

ence ſhows to be in exiſtence, I am ſure I cannot give a more clear, diſtinct, or better ſtate of the American commerce than it contains.

† This repreſentation ſtates, that it is the ſingular diſadvantage of the Northern Britiſh Colonies, that, while they ſtand in need of vaſt quantities of the manufactures of Great Britain, the country is productive of very little which affords a direct remittance thither in payment; and that from neceſſity therefore, the inhabitants have been driven to ſeek a market for their produce, where it could be vended, and, by a courſe of traffick, to acquire either money or ſuch merchandize as would anſwer the purpoſe of a remittance, and enable them to ſuſtain their credit with the mother country; that the prodigious balance ariſing in her favour is a fact too well known to the merchants of Great Britain trading to thoſe parts to need any elucidation; but, as the nature of the petitioners commerce when free from reſtraints, *which they think of fatal effect, and deſtructive to it*, ought to be underſtood, they beg leave to obſerve that their produce then ſent to our own and the foreign iſlands, was chiefly bartered for ſugar, rum, melaſſes, cotton, and indigo; that the ſugar, cotton, and indigo, ſerved as remittance to

† New-York petition.

Great Britain; but the * rum and melaſſes conſtituted eſſential branches of the petitioners commerce, and enabled them to barter with our own Colonies for fiſh and rice; and by that means to purſue a valuable trade with *Spain*, *Portugal*, and *Italy*, where they chiefly obtained money or bills of exchange in return; and likewiſe qualified them for adventures to Africa, where they had the advantage of putting off great quantities of Britiſh manufactures, and of receiving in exchange gold, ivory, and ſlaves, which laſt, diſpoſed of in the Weſt India iſlands,

* This rum and melaſſes became, to the Carolinas and other ſouthern Colonies, not only a matter of aid in their own conſumption, but alſo an article in their Indian commerce; became to the inhabitants of New England and New Scotland, an aid in their internal conſumption, but alſo a conſiderable aid to the conſumption in their fiſhery. The avowed and chief articles of commerce between North America and the parts of Europe to the ſouthward of Cape Finiſtre are, fiſh and rice. Rice is the produce of Carolina, and the fiſhery is the more peculiar buſineſs of New England and Nova Scotia. Each of theſe countries produces and manufactures, the one more rice, the other more fiſh than they conſume in their own ſubſiſtance and in their own foreign trade, and ſo each exchanges that ſurpluſage for the rum, or rather the melaſſes which the New Yorkers fetch from the Weſt Indies. By which the New Yorkers, like the Dutch in Father-land, chief carriers, are enabled to make out adventures to the Streights and to Africa.

com-

commanded money or bills: Rum was indiſpenſable in their Indian trade; and, with Britiſh manufactures, procured furs and ſkins, which ſerved for conſiderable returns to Great Britain, and encreaſed the revenue thereof; that the trade to the bay of Honduras was alſo very material to their commerce, being managed with ſmall cargoes of proviſions, rum, and Britiſh manufactures, which, while they were at liberty to ſend foreign logwood to the different ports in Europe, furniſhed them with another valuable branch of remittance; that, from this view, it is evident that ſugar, rum, melaſſes, and logwood, with cotton and indigo, are the eſſentials of their return-cargoes, and the chief ſources from which, in a courſe of trade, that they have extended their uſefulneſs to, and maintained their credit with Great Britain.

That conſidering the prodigious conſumption of Weſt India produce in Great Britain, Ireland, and the continental Colonies, the rapid increaſe of thoſe Colonies, their inhabitants already exceeding † two millions, the vaſt acceſſion of ſubjects by the late conqueſts, beſides the innumerable tribes of In-

† Including the Blacks.

dians

dians in the extenſive countries annexed to the Britiſh crown, the utter incapacity of our own iſlands to ſupply ſo great a demand, muſt be out of all queſtion: on the other hand, the lumber produced from clearing this immenſe territory, * and proviſions extracted from the fertile ſoil, which moſt of the inhabitants are employed in cultivating, muſt raiſe a ſupply for exportation, with which the conſumption of our own iſlands can bear no ſort of proportion; ‡ that it ſeems therefore conſiſtent with ſound policy to indulge thoſe Colonies in a free and unreſtrained exportation of all the lumber and produce they raiſe and can ſpare, and an

* This includes bread, corn, biſcuit, flour, beef, pork, horſes, and the ſmaller articles of live ſtock.

‡ If we, by artificial reſtraints, endeavour to cut off from between the foreign Weſt India iſlands, and our North American Colonies, that intercourſe and exchange of ſupplies which is now neceſſary to them, or to clogg it in a manner that renders it detrimental or impracticable to thoſe iſlands,——may we not force them into what ſhould ſeem their natural courſe of commerce, an intercourſe with their own Colonies, in the ſouthern latitudes; whence they may be ſupplied with all thoſe articles of lumber and live ſtock and bread, corn, &c. which at preſent, by a lucky, rather than a natural or neceſſary courſe of trade, create almoſt a monopoly to the Northern American Colonies of the Weſt India ſupply.—

ample importation of ſugar, rum, and melaſſes, to ſupply the various branches of their trade, to which they appear ſo neceſſary; that, without the one, the clearing of new lands, which is extremely laborious and expenſive, will be diſcouraged; and proviſions, for want of vent, become of little profit to the farmer; without the other, the petitioners muſt be plunged into a total incapacity of making good their payments for Britiſh debts; their credit muſt ſink, and their imports from Great Britain gradually diminiſh, till they are *contracted to the narrow compaſs of remittances, barely in articles of their own produce*; and that, how little ſoever their intereſt of commerce could be promoted, the Colonies, thus checked, muſt, from inevitable neceſſity, betake themſelves to manufactures of their own, which will be attended with conſequences very detrimental to thoſe of Great Britain. The petitioners, having thus repreſented the nature of their commerce, proceed to point out the ſeveral grievances, which it labours under, from the regulations preſcribed by the laws of trade; and which, if not remedied, they conceive muſt have a direct tendency to prevent the cultivation, and ruin the trade, of the Colonies, and prove highly pernicious

to both the landed and trading intereſt of Great Britain *.

That the heavy embaraſſments, which attend the article of ſugar, is a capital ſubject of complaint; and, beſides the abſolute neceſſity of a great importation to ſuſtain their trade, it is a well known truth, that it often happens, at the foreign iſlands with which they have intercourſe, that a ſufficient return-cargo, independent of ſugar, cannot be procured, which alone muſt render trade precarious and diſcouraging; but the high duty of five ſhillings ſterling a hundred is proved, by experience, to be exceſſive, and has induced the fair trader to decline that branch of buſineſs, while it preſents an irreſiſtable incentive to ſmuggling, to people leſs ſcrupulous; that it anſwers not the purpoſes of the government, or of the nation, ſince it cannot be duly collected, and, if it could, would have a neceſſary tendency to contract remittances for Britiſh debts, while,

* Whether the Britiſh merchant will attend to this or not—it is nevertheleſs true. The views of merchants ſeldom, in courſe of trade, go beyond themſelves and the preſent profit,——but the ſtateſman, whether we look to him in adminiſtration or in parliament, ought thoroughly to weigh the truth and conſequence of this aſſerted fact, as it may affect the Britiſh commerce in general.

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at the ſame time, it is moſt miſchievous to the Colonies, by cutting off one of the grand ſprings of their traffic; and, that the preſſure of this duty is not aggravated, the petitioners appeal to the officers of the cuſtoms of their port, that the petitioners therefore moſt humbly intreat, that a moderate duty be laid on foreign ſugars, which, they are aſſured, would not only greatly conduce to the proſperity of thoſe Colonies, and their utility to the mother country, but encreaſe the royal revenue far beyond what can be expected under the preſent reſtraints.

† That the compelling merchants to land and ſtore foreign ſugars in Great Britain, before they can be exported to other parts of Europe, is another moſt expenſive and dilatory reſtriction, without being of any material advantage to the revenue of Great Britain; for it effectually puts it out of the petitioners power, to meet foreigners at market upon an equal footing, is a great and heavy burden in times of peace and ſecurity, but in war will expoſe the trader to ſuch

† That the New Yorkers, only carriers, ſhould regard this regulation with uneaſineſs, is natural, but ſurely it is a wiſe and prudent regulation, for the benefit of the Britiſh Iſles, to create and give a preference to the Britiſh produce and manufacture of the ſubjects of thoſe Iſlands.

peril and hazard, as muſt wholly extinguiſh this uſeful branch of remittance; that Britiſh plantation ſugar exported from North America, ſhould be declared French on being landed in England, the petitioners conceive may juſtly be claſſed among the number of hardſhips, inflicted by thoſe regulations, as in effect it deprives them of making a remittance in that article, by expoſing them to the payment of the foreign duty in Great Britain, which appears the more ſevere, as their fellow ſubjects of the iſlands are left at liberty to export thoſe ſugars for what they really are, and a diſtinction is thus created in their favour, which the petitioners cannot but regard with uneaſineſs.

That foreign rum, French excepted, is the next article which the petitioners moſt humbly propoſe for conſideration, as the importation thereof, on a moderate duty, would add conſiderably to the revenue, prevent ſmuggling, promote the petitioners navigation, encreaſe the vent of their own produce with Britiſh manufactures, and enable them to bring back the full value of their cargoes, more eſpecially from the Daniſh iſlands of St. Thomas and St. Croix, from whence they can now only receive half the value in ſugar and cotton, conſequently rum alone can be expected for the other half,

thoſe

thoſe iſlands affording nothing elſe for returns, and having no ſpecie but of a baſe kind.

That the exportation of foreign logwood to foreign markets, has already been diſtinguiſhed as one of the principal means, by which thoſe Colonies have been enabled to ſuſtain the weight of their debts for Britiſh manufactures, and it is with the greateſt concern, the petitioners obſerve it to be ranked by the late act among the enumerated articles; and conſequently made ſubject to the delay, the hazard, and expence, of being landed in Great Britain; the low price of logwood, its bulk, and the duty with which it is now burthened, muſt totally deſtroy that valuable branch of the petitioners commerce, and throw it into the hands of foreigners, unfettered with thoſe heavy embarraſſments.

That their lumber and pot-aſh even when ſhipped for Ireland, where they are ſo neceſſary, the latter particularly for the progreſs of their linen manufacture, and proviſions themſelves, though intended to relieve that kingdom from a famine, are ſubject to the ſame diſtreſſing impediments; nor is flax-ſeed, on the timely importation of which the very exiſtence of the linen manufacture

of Ireland immediately depends, exempted, although it is a fact capable of the moſt ſatisfactory proof, that, without the delay now created, it has been with difficulty tranſported from that Colony, to be there in proper ſeaſon for ſowing; that what renders ſo injurious an obſtruction the more affecting is the reflection, that, while it deprives the petitioners of the benefits ariſing from flax-ſeed, lumber, and pot-aſh, theſe articles may all be imported into Ireland directly from the Baltic, where they are purchaſed from foreigners, under the national diſadvantage of being paid for with money inſtead of manufactures; and the petitioners therefore humbly beg leave to expreſs their hopes, that an evil in ſo high a degree pernicious to them, to the ſtaple of Ireland, and to the trade and manufactures of Great Britain, and which in times of war muſt fall on all with a redoubled weight, will not fail of obtaining the attention of the houſe, and an immediate and effectual redreſs.

That they beg leave further to repreſent, that the wines from the iſlands, in exchange for wheat, flour, fiſh, and lumber, would conſiderably augment the important article of remittance, was the American duty withdrawn, on exportation to Great Britain: and that it is therefore humbly ſubmitted, whether

whether ſuch an expedient, calculated at once to attach them to huſbandry by expanding the conſumption of American produce, to encourage Britiſh manufactures by enabling the petitioners to make good their payments, and to encreaſe the royal revenue by an additional import of wines into Great Britain, will not be conſiſtent with the united intereſts both of the mother country and her Colonies.

That the petitioners conceive the North American fiſhery to be an object of the higheſt national importance; that nothing is ſo eſſential for the ſupport of navigation, ſince by employing annually ſo great a number of ſhipping, it conſtitutes a reſpectable nurſery for ſeamen, and is ſo clearly advantageous for remittances, in payment for Britiſh manufactures; that the petitioners therefore humbly preſume, that it will be cheriſhed by the houſe with every poſſible mark of indulgence, and every impediment be removed, which tends to check its progreſs.

That the enlarging the juriſdiction of the admiralty, is another part of the ſtatute of the fourth of his preſent majeſty, very grievous to the trade and navigation of the Colonies, and oppreſſive to the ſubject, the pro-

perty of the trader being open to the invaſion of every informer, and the means of juſtice ſo remote as to be ſcarcely attainable.

That the petitioners beg leave to expreſs the warmeſt ſentiments of gratitude, for the advantages intended by parliament, to America in general, in the opening free ports at the iſlands of Jamaica and Dominica; yet, at the ſame time, they cannot but lament, that it is their unhappineſs to be in no condition to reap the benefits which, as it was imagined, would flow from ſo wiſe a policy; that the collecting great quantities of the produce of Martinico, Guadaloupe, &c. at the iſland of Dominica, will be the natural conſequence of opening that port, and would prove of real importance to thoſe Colonies, were they at liberty to bring them back, in return for their lumber and proviſions; but, as they are now prohibited from taking any thing, except melaſſes, and, it is juſtly apprehended, there cannot be a ſufficient quantity of that commodity to ſupport any conſiderable trade, the petitioners think it evident, that no ſubſtantial advantage can be derived to them under ſuch a reſtraint; that they are, at the ſame time, at a loſs to diſcern the principle on which the prohibition is founded; for, ſince ſugar may be imported direct from the foreign iſlands, it

ſeems

ſeems much more reaſonable, to ſuffer it from a free port belonging to Great Britain; that the petitioners therefore humbly hope, that it will be thought equitable to adapt this trade to their circumſtances, by granting them liberty to import into the Colonies all Weſt India productions, in exchange for their commodities. That upon the whole, although, at the laſt ſeſſion, the neceſſity of relieving the trade of thoſe Colonies ſeems to have been univerſally admitted, and the tender regard of parliament for their happineſs highly diſtinguiſhed, nevertheleſs, experience has evinced, that the commercial regulations, then enacted, inſtead of remedying, have encreaſed the heavy burthen under which it already laboured.

* " In this ſurvey one thing muſt be " taken notice of as peculiar to this country, " which is, that as in the nature of its " government, ſo in the very improvement " of its trade and riches, it ought to be " conſidered not only in its own proper " intereſt, but likewiſe in its relation to

* Letter of Sir William Temple to Lord Eſſex, in July 22, 1673, concerning the ſtate of Ireland, wherein the reader will ſee the ſurvey taken of the trade of that country, at that time ſo appoſite to the ſtate of the trade of the Colonies at this ſeaſon, it will be impoſſible not to apply it.

" Eng-

" England, to which it is ſubordinate, and
" upon whoſe weal in the main, that of this
" kingdom depends, and therefore a regard
" muſt be had to thoſe points wherein the
" trade of Ireland comes to interfere with
" any main branches of the trade of Eng-
" land, in which caſe the encouragement
" of ſuch trade ought to be either declined
" or moderated, and ſo give way to the
" intereſt of trade in England. Upon the
" health and vigour whereof the ſtrength,
" riches and glory of his majeſty's crown
" ſeem chiefly to depend. But on the
" other ſide, *ſome ſuch branches of trade*
" *ought not wholly to be ſuppreſſed*, but ra-
" ther ſo far admitted as may ſerve the
" general conſumption of the kingdom, *leſt*
" *by too great an importation of commodities,*
" *though out of England itſelf, the money of*
" *this kingdom happen to be drawn away in*
" *ſuch a degree, as not to leave a ſtock ſuffi-*
" *cient for turning the trade at home.*"

If many of theſe regulations above propoſed and ſubmitted to conſideration, cannot be admitted, while the Colonies are, by the laws of trade, conſidered as *mere plantations*: And if the improved commerce of the Colonies cannot any longer ſubſiſt as a branch of the commercial intereſt of Great Britain, if they are not admitted, Great Britain is reduced

duced to the dangerous alternative of either giving up the ſubordination of the trade of its plantations, or of giving up its commerce, as it hath been extended and improved by its Colonies becoming commercial ſtates; from which, otherwiſe inevitable danger, nothing but the general plan of union, as repeatedly above recommended, can preſerve it.

The general principle of the laws of trade regulating the Colony trade, is, that the Colonies ſhall not, on one hand, be ſupplied with any thing but from a Britiſh market, nor export their produce any where but to a Britiſh market. In the application of this principle, the preſent laws direct, except in ſome ſpecial particulars, that the Colonies ſhall import all their ſupplies *from Britain*, and carry all their produce *to Britain*.

If now, inſtead of confining this market for the Colonies to Britain only, which is a partial and defective application of the general principle whereon the act of navigation is founded; this Colony trade was made, amidſt other courſes of trade, an occaſion of eſtabliſhing *Britiſh markets even in other countries*, the true uſe would be derived to the general intereſt from theſe advantageous circumſtances, while in particular the Colonies and the mother country would be mutually

tually accommodated. In the firſt caſe, the general intereſt, perverted to partial purpoſes, becomes ſo far forth obſtructed; in the ſecond, it would be carried by the genuine ſpirit of it to its utmoſt extent.—If, under certain reſtrictions, ſecuring alſo thoſe duties which the produce of the Colonies, carried to market, ought to pay to the mother country, the Colonies were permitted to export their produce (ſuch as are the baſis or materials of any Britiſh manufacture excepted) directly to foreign countries, if ſo be they ſold it to any *Britiſh houſe* eſtabliſhed in ſuch place, and were alſo permitted, if they bought their ſupplies from a *Britiſh houſe* eſtabliſhed in thoſe parts, to ſupply themſelves with the natural fruits and produce of that country (all manufactures that any way interfere with the Britiſh manufactures excepted) paying there to ſome Britiſh officer, or upon their arrival in the Colonies, the ſame duties as they would have paid by purchaſing the ſame commodities in England, every end propoſed by the principal of the act of navigation would be anſwered; the exports of the Colonies would be encouraged; and *the Britiſh market* greatly extended.

The Colonies would not only trade to, and be ſupplied by, a *Britiſh market*, but would

would become an occaſion of eſtabliſhing the Britiſh market in foreign countries. The ſame reaſons of commerce, which, in a narrower view, became the grounds for eſtabliſhing factories at Peterſburgh, Riga, Hamborough, Liſbon, Cadiz, &c. would on a more general and extenſive baſis become the foundation for eſtabliſhing and building up *theſe Britiſh markets* in every region to which our trade extended itſelf; for while it neceſſarily enlarged the ſpecial intereſt of the Colonies, it would enlarge it only at Britiſh markets, and to the final profit of the Britiſh general commerce. The profits of ſuch market finally centering in Great Britain. If this maxim be not true, that the profits of the factories ſettled in foreign ports finally center in Great Britain, the meaſure of eſtabliſhing ſuch is falſe in policy; if the maxim be true, the permitting our Colony exports to go directly to the ports where ſuch factories are eſtabliſhed, is not contrary to the principle on which the act of navigation aroſe, but becomes coincident with, and aiding to it, in extending the Britiſh navigation and Britiſh markets, and ſecuring the final profits thereof to Britain only.

If this method of reaſoning be found not contrary to the principle of the act of navigation; if this meaſure at the ſame time

that

that it encourages the trade of our Colonies, is found to do it in a way ſubſervient to the general commerce of Great Britain, extending the Britiſh markets, and ſecuring the final balance of profit to Britain only; if this ſpirit of adminiſtration, ſo far as government has a right to direct the courſe of trade, be adopted in this part of it, the great points which it has to ſecure, are firſt, that the Colony exports to, and the ſupplies purchaſed by them from thoſe foreign ports, *be ſold and bought at a Britiſh market only.*—The government has a right to extend its laws to theſe Colony traders, and to the factories eſtabliſhed in foreign ports.——It can therefore, partly by ſuch laws as it finds proper to enact, for the regulation of this factory trade, and partly by obliging theſe Colony traders to give bond before their departure from the Colonies, ſecure and confine all theſe tranſactions of that commerce, which is permitted at any ſuch port, to a Britiſh market only, the laws that eſtabliſhed theſe being a favour extended to the Colonies, and promoting the intereſt of theſe factories, would, as all laws of trade ſhould do, execute themſelves; and by giving the requiſite powers to a conſul or naval officer reſident there, would be eaſily adminiſtered by ſuch officer.

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The next point to be guarded, would be the ſecuring thoſe duties which this trade ought to pay to the government of Great-Britain: If the ſame duties were paid, or ſecurity for them taken in theſe foreign ports, as would be or ſhould be paid by the Colony trade, if the traders were ſtill obliged to come to Britain, every end would be anſwered to the government revenue, and theſe charges might be ſufficiently ſecured, by obliging all theſe traders to ſail under bond. The arrangements to be taken in ſuch caſe ought to be that of adding to the office of conſul, ſuch powers as in the Colonies, before the eſtabliſhment of ſpecial revenue officers there, were given to the naval officer, or to eſtabliſh a naval officer. The conſul or naval officer, in this branch of his adminiſtration, ſhould be ſubordinate to the commiſſioners of the cuſtoms and the lords of the treaſury. If the duties were collected by him, in the ports of his diſtrict, he ſhould account and give ſecurity for the ſame; if bonds only, as ſecurity for the payment at ſuch Britiſh or plantation ports, were given, he ſhould keep the regiſter of the ſame, and correſpond with the commiſſioners of the cuſtoms, and ſuch officers as they direct, as to the fulfilling, cancelling, or proſecuting to effect ſaid bonds. Theſe general arrangements, taken, together with ſuch further

ſpecial regulations, as the experience of the commiſſioners of the cuſtoms ſhould ſuggeſt, the revenue of the Colony and factory trade, under this mode of adminiſtration, would be well ſecured, chearfully paid, and eaſily collected.

Under the adminiſtration of ſuch meaſures, there does not appear any reaſon why all the produce of the Britiſh Colonies, which are not the baſis of, or do not interfere with the Britiſh manufactures, might not be carried directly to a Britiſh market at a foreign port, —and why the carrying of rice to foreign ports might not be extended, under theſe laws, to all ſuch foreign ports whereat a Britiſh factory is eſtabliſhed.—Nor under this mode of commerce can any ſufficient reaſon upon earth ſubſiſt, why the Colony traders ſhould not be permitted to load at theſe ports, the fruits, wine, oil, pickles, the produce of that country, and alſo ſuch raw unmanufactured produce, as would not interfere with the manufacture of Great Britain, inſtead of being obliged to come to Britain to buy or reload here, after the expence of an unneceſſary voyage, thoſe very commodities which they might have bought in a *Britiſh market*, at the port which they left. Why not any of theſe as well as ſalt, as well as wines from the Madeiras and weſtern iſles?

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In the ſame manner, by the ſame law, why may not our Colony traders be permitted to carry ſugar, ginger, tobacco, rice, &c. to ſuch ports in the rivers Weſer and Elbe, in the Sound and in Ruſſia, whereat a Britiſh factory is, or may be eſtabliſhed? It can never be right policy to ſuffer labour in vain in a community: it is juſt ſo much loſt to the community: and yet this coming round by England is labour in vain: If the ſubordinacy of the Colony-trade, and the duties ariſing thereon, can be by any other means ſecured, it is ſo much labour loſt. The two points of a *Britiſh market*, and the revenue of the duties being ſecured, why may not theſe traders be permitted to load at theſe ports directly for the Colonies, hemp, yarn, and ſuch coarſe linens, as do no way interfere with the Britiſh manufactories? Theſe meaſures taken, which would prove to be the true means of encouraging the Colony-trade, the beſt method to put a ſtop to the contraband trade carried on in this branch of buſineſs, and the true grounds whereon to eſtabliſh the general commercial intereſts of Great Britain, government could not be too ſtrict in enforcing the execution of the laws of trade, nor too ſevere in puniſhing the breach of them.—Wherever they found theſe traders endeavouring to carry from theſe ports to the Colonies raw ſilk, ſilks, velvets,

foreign cloths, laces, iron, ſteel, arms, ammunition, ſails or rigging, or any manufactures whatever, that interfere with the manufacture of Great Britain: whenever they found theſe traders endeavouring to carry from the Colonies to thoſe ports, any dying-wood whatever, indigo, cotton, ſilk, bees or myrtle-wax, flax-ſeed, naval ſtores, furs, ſkins or peltry, hides, proviſion, grain, flour, bread or biſcuit; whale-oil, blubber, bone, or any other fiſh-oil, or tallow, or candles, with an exception perhaps to myrtle and ſpermaceti candles, government could not be too ſtrict and watchful to reſtrain them. Under proper regulations, the rum of the northern Colonies ſhould be carried to Africa, and the ſale of it to the French on the banks of Newfoundland encouraged, if ſuch vent could be procured, as we ſhould thereby reap at leaſt ſome ſhare even of the profit of the French fiſhery.

In the above reviſion of, and the propoſed regulations for the Colony trade, as connected with that of Europe, it will be ſeen that all mention of Eaſt India goods is purpoſely omitted. I think a ſpecial meaſure might be contrived of ſupplying the Colonies with Eaſt-India goods, in a way that would effectually put to a ſtop to that contraband trade, by which it is complained they are at preſent

ſent ſupplied, in a way by which one of the greateſt marts in the world, with every attendant advantage to the Britiſh general commerce, and the ſpecial intereſt of the Eaſt-India trade, might be eſtabliſhed.

If meaſures were at this juncture taken, between the government and the Eaſt-India company, ſo that an Eaſt-India ſhip might annually ſtop at ſome iſland in the Weſt-Indies, the traders, not only of the Weſt-Indies, but of North America, would ſupply themſelves with every advantage at ſuch mart, not only for their own proper conſumption, but alſo for a trade of the greateſt extent; and this mart, in return, would be to the Eaſt-India company, the collector of all the ſurplus ſilver of America, and perhaps even of ſome of the gold and ivory of Africa alſo. The extenſive advantages of this meaſure cannot but be ſeen; nor would this any way interfere with that ſupply with which the Eaſt-India trade, by way of the Manilla's, furniſhes the Spaniſh Weſt-Indies, ſo far as our Eaſt-India company may be ſuppoſed to be concerned, but would, in other reſpects, open a better channel of trade between the Eaſt and Weſt-Indies, which our company muſt command. The difficulties in the execution lie in ſecuring to government the revenue that ſhould ariſe

from the duties duly paid by this trade, and in ſecuring the company againſt the perverſion of this trade to the profit of their officers and ſervants.——

In the ſame manner, ſome reviſion of the ſtate of the trade of the Colonies of the ſeveral maritime powers amongſt each other will be neceſſary.——The laws and ordonnances of theſe do in general prohibit all trade of foreign Colonies with their own;—and yet, without ſome ſuch trade as ſupplies the Spaniſh provinces with Britiſh goods and proviſions, as ſupplies the Britiſh Colonies with Spaniſh ſilver, as ſupplies the French iſlands with Britiſh lumber, fiſh, proviſions, horſes, and live ſtock, as ſupplies the Britiſh Colonies with French mellaſſes, the trade and culture of theſe Colonies would be greatly obſtructed and impaired; and yet notwithſtanding this fact, our laws of trade, by an impracticable duty, extend to the prohibiting the importation of French mellaſſes into our Colonies.—If the government, under this law, could prevent effectually this importation, not only into the northern Colonies, *but into the Britiſh iſles alſo*, the reward of that pains would be the deſtruction of a beneficial branch of trade, perhaps of driving the Britiſh American diſtillery into the

the French, Dutch, or Daniſh iſles, or of forcing the French, contrary to their own falſe policy, into a profitable manufacture of that produce which they now ſell as refuſe materials. I need not point out here the very eſſential change that this would make in the Colony trade.——On the contrary, it is the duty of government to permit, nay even to encourage, under proper regulations, theſe branches of trade; in the firſt place, in order to extract out of the foreign Colonies, to the benefit of the Britiſh commerce, as much as poſſible the profits of theſe Colonies, and which is more material, in order to create a neceſſary dependence in the trade and culture of thoſe Colonies for their ſupplies on the Britiſh commerce.—When it is remembered that the law, which lays a duty equal to a prohibition, on the importation of French mellaſſes in the Britiſh Colonies, was obtained at the ſolicitation of the Britiſh iſles, it will be ſeen, that the obtaining this law is not ſo much meant to prohibit totally the introduction of French mellaſſes into the Britiſh trade, as to determine a ſtruggle between the Weſt-India and North American traders, who ſhould have the profits of it. And thus, from the predominant intereſt of theſe partial views, has government been led to embarraſs the general courſes of its trade.——But as the Weſt

India traders ſee that this law has not, never had, and never will have the effect propoſed, they will be better reconciled to its ceaſing; and as government muſt now, after the experiment, ſee the falſe policy of it, * there is no doubt but that it will ceaſe, ſo far as to reduce the duty to a moderate and practicable charge, ſuch as will be paid, and ſuch as will raiſe to the crown a very conſiderable revenue thus paid.

I ſpeak not this by gueſs; but, from a compariſon of the quantity of ſugars and mellaſſes brought to account in the cuſtom-houſe books of the *King's revenue*, with the quantity of the ſame article, in the ſame ports, brought to account in the impoſt-books of the *Colony revenue*, for ſix years together, could, with ſome preciſion, mark the extent of it. I own I did always apprehend that two-pence *per* gallon on foreign mellaſſes imported into any Britiſh plantation, and ſo in proportion of ſugars, was the beſt rate at which to fix this duty; that being thus *moderate*, it might be eaſier and with leſs alarm and oppoſition collected, and might therefore the ſooner introduce the practice of fair trade, and the ſooner become

* This meaſure hath, ſince the writing of the above, taken place by 6 Geo. 3. c. 52.

an *effective revenue:* But when I ſee a groundleſs clamour raiſed, which repreſents the rate fixed by the late revenue-act as deſtructive of the American diſtillery, as ruinous to the American fiſhery, as a prohibition of the returns made from the foreign iſlands for the North American fiſh; I muſt own that I have never ſeen any fact ſtated, or calculation fairly made on which ſuch aſſertions found themſelves.

The French iſles, ſince the ſurrender of Canada and Louiſiana, muſt depend entirely for their ſupplies of lumber, ſtaves, heads, proviſions, live ſtock, horſes, &c. on the Britiſh Colonies, immediately exported from thence to thoſe iſles, unleſs by ſome means ſupplied from markets created at New Orleans and the iſland of St. Peter, as from another Iſle of Man; it will therefore be the duty of government to keep a watchful eye to the formation and extent of theſe markets;—ſo at leaſt, if they be permitted, as to have the command of them, and ſo as to prevent their being, to the French traders, the means of ſupplying the Spaniſh markets alſo, as well as their own.

Since the writing of what the paragraph above contains, very proper regulations have been by the late American revenue-act pro-

vided; and if proportionate care be taken in the execution of it, this danger is for the preſent guarded againſt.

Some reviſion alſo will be neceſſary in the laws about naval ſtores, eſpecially that reſpecting the maſts. The preſent law, under an idea of preſerving the White Pine or maſt trees, directs, That no White Pines ſhall be cut or felled within the limits of any townſhip, if not actually private property.—This part of the law ariſes from a miſtaken apprehenſion of a townſhip, there being no lands within ſuch but what are private property.—2*dly*, That no pines out of a townſhip, of the dimenſions of 24 inches and upwards, diameter, at the heighth of 20 inches from the ground, ſhall be felled.—This part of the law is *felo de ſe*.—Thoſe who find their profits in cutting down theſe trees for logs or making ſhingles, &c. or who know the embarraſſments which would ariſe to their property, if they ſhould ever apply for a grant of theſe lands, by letting ſuch Pine-trees, the property of the crown, grow there, never (if they have not other means to evade this law) will permit theſe Pines to come to *this dimenſion* which makes them royal property. The falſe policy of this law, and the defects in the eſtabliſhment of an office of ſurveyor-general of his Majeſty's

Majeſty's woods, will ſoon, if not obviated, be felt in the ſcarcity and price of maſts, which will be the effect of it. The neceſſity of their going a great diſtance from the rivers for the maſts has already taken effect, and the caſe of there being none within any practicable diſtance will ſoon follow. The navy-office finding that their maſt-ſhips do come regularly hitherto to England, cannot entertain any fear of ſuch want, and it will be the intereſt of others to ſuppreſs and contradict this fact; yet it is a fact, and will be ſoon known in its effects. On the contrary, if it is conſidered how diſproportionate a value the price of the Pine-tree growing bears to the price of the maſt when brought in the middle of winter, over the ſnow, with 70 or 80 yoke of oxen to the water-ſide; if, inſtead of aiming to make theſe trees, thus growing, *royal excluſive property*, the crown was not only to permit a free maſting in lands not granted, and to make the maſt-trees of all dimenſions, *private property* on lands actually granted, but alſo (as it is done in other caſes of naval ſtores) to give a bounty beſides the price, to the perſon who ſhould bring down any ſuch maſts to the water-ſide, it would have an immediate effect in ſupplying the crown with maſts at a cheaper rate, and in the preſervation

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of theſe trees, thus become a branch of trade.

I would wiſh here alſo to recommend the giving ſome advantages and encouragement to the importation of American timber into Great Britain.

I have not gone into the thorough examination of theſe ſubjects above-mentioned, nor have I pointed out, in all their conſequences, the effects that this or that ſtate of them would have. I have only pointed them out as worthy the attention of government; and, I am ſure, whenever government takes them under conſideration, they will be better underſtood than any explanation of mine can make them.

Were ſome ſuch arrangements taken for a reviſion and further eſtabliſhment of the laws of trade, upon the principle of extending the Britiſh general commerce, by encouraging the trade of the Colonies, in ſubordination to, and in coincidence therewith, the trade of the Colonies would be adminiſtered by that true ſpirit from whence it roſe, and by which it acts; and the true application of the benefits which ariſe to a mother country from its Colonies would be made. Under this ſpirit of adminiſtration, the government,

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as I ſaid above, could not be too watchful to carry its laws of trade into effectual execution.—But under the preſent ſtate of thoſe laws, and that trade, there is great danger that any ſeverity of execution, which ſhould prove effectual in the caſes of the importation into the Colonies of foreign European and Eaſt-India goods, might force the Americans to trade for their imports, upon terms, on which the trade could not ſupport itſelf, and therefore become in the event a means to bring on the neceſſity of theſe Americans manufacturing for themſelves. Nothing does at preſent, with that active and acute people, prevent their going into manufactures, except the proportionate dearneſs of labour, as referred to the terms on which they can import; but encreaſe the price of their imports to a certain degree, let the extent of their ſettlements, either by policy from home or invaſion of Indians abroad, be confined, and let their foreign trade and navigation be, in ſome meaſure ſuppreſſed;——their paper-currency limited within too narrow bounds, and the excluſion of that trade which hath uſually ſupplied them with ſilver-money too ſeverely inſiſted upon;—— this proportion of the price of labour will much ſooner ceaſe to be an object of objection to manufacturing there, than is commonly apprehended. The winters in that climate

climate are long and ſevere; during which ſeaſon no labour can be done without doors. That application therefore of their ſervants labour, to manufactures for home conſumption, which under any other circumſtances would be too dear for the product created by it, becomes, under theſe circumſtances, all clear gains. And if the Coloniſts cannot on one hand purchaſe foreign manufactures at any reaſonable price, or have not money to purchaſe with, and there are, on the other, many hands idle which uſed to be employed in navigation, and all theſe, as well as the huſbandmen, want employment; theſe circumſtances will ſoon overbalance the difference of the rate of labour in Europe and in America. And if the Colonies, under any future ſtate of adminiſtration, which they ſee unequal to the management of their affairs, *once come to feel their own ſtrength in this way*, their independence on government, at leaſt on the adminiſtration of government, will not be an event ſo remote as our leaders may think, which yet nothing but ſuch falſe policy can bring on. For, on the contrary, put their governments and laws on a true and conſtitutional baſis, regulate their money, their revenue, and their trade, and do not check their ſettlements, they muſt ever depend on the

the trade of the mother country for their ſupplies, they will never eſtabliſh manufactures, their hands being elſewhere employed, and the merchants being always able to import ſuch on * terms that muſt ruin the manufacturer. Unable to ſubſiſt without, or to unite againſt the mother country, they muſt always remain ſubordinate to it, in all the tranſactions of their commerce, in all the operation of their laws, in every act of their government:——The ſeveral Colonies, no longer conſidered as demeſnes of the crown, mere appendages to the realm, will thus become united therein, members and parts of

* This is a fact too well known and underſtood to need any particular proof—but if need were, the writer of theſe papers could demonſtrate this from the prices of wool, hemp, and flax, and the labour of carding, dreſſing, ſpinning, weaving, &c. in North America, compared with the prices of the ſame articles of produce and labour in Britain. It is therefore an idle vaunt in the Americans, when they talk of ſetting up manufactures *for trade*; but it would be equally injudicious in government here to force any meaſure that may render the manufacturing for *home conſumption* an object of prudence, or even of pique in the Americans. And yet after all, ſhould any thing of this ſort extend itſelf to a degree that interfered with the exports of Great Britain to the Colonies——the ſame duties of an exciſe which lie upon the manufactures of Great Britain, levied upon thoſe of America, would ſoon reſtore the balance. This conſideration, one might imagine, would induce thoſe who are prudent in America, to adviſe the reſt to moderation in their oppoſition.

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the realm, as essential parts of a one organized whole, *the commercial dominion of Great Britain*. THE TAKING LEADING MEASURES TO THE FORMING OF WHICH, OUGHT, AT THIS JUNCTURE, TO BE THE GREAT OBJECT OF GOVERNMENT.

The END.

APPENDIX.

SECTION I.

ALTHOUGH the following papers, at the time in which they were written, had reference to the ſtate of the ſervice as oppoſed to the French meaſures and power in America: Although they are parts of another work intended to be publiſhed at ſome future time, yet they are here annexed to *the Adminiſtration of the Colonies*, as they treat of matters very worthy preſent conſideration; and as in general they contain ideas of police, which reſpect the poſſeſſion, preſervation, and improvement of thoſe acquiſitions which our conqueſts have put into our hands,—and the forming them into ſome ſyſtem of Empire that ſhall be the Empire of Great Britain.

The firſt paper, which had for its object the forming of the Britiſh poſſeſſions, together with thoſe of our allies the Indians, into a ſyſtem of barrier againſt the French, was written at a time when the ſubject was entirely new, ſcarce ever brought forward to conſideration here in England, and when authentic accounts of the true ſtate of the country as poſſeſſed by the Engliſh and French, were with great difficulty, if at all, to be

be obtained; and I may venture to ſay, utterly unknown to our military.

The latter of theſe papers, was written after it became neceſſary to change the object of the war; and the only thing which I wiſh to ſay of the ideas that it contained, is, that they were literally juſtified by the events.

A MEMORIAL:

STATING the NATURE of the SERVICE in NORTH AMERICA, and propoſing a GENERAL PLAN of OPERATIONS, as founded thereon.

Drawn up by Order of, and preſented to, his Royal Highneſs the Duke of Cumberland, 1756. *By* T. POWNALL.

HIS Majeſty has now united the ſervice in North America into one power of action, and under one direction, by appointing a commander in chief over all North America, with powers to direct, and with force to carry on this ſervice as a one whole. The next and neceſſary point therefore is, that there ſhould be ſome *one general plan of operations* fixed, which may be carried on, not only by the general forces employed in the general and military part of this plan, but by every particular province and colony, within its own private councils, and own private

private operations, coincident with the whole. When ſuch plan is fixed, every ſum of money that is raiſed for this ſervice, will be applied to what ſhall be of real ſervice and permanent uſe; and every the moſt-minute operation that is undertaken, will become as part of ſuch plan, Ἔργον εἰς ἀιὲι;——and every (the moſt otherwiſe inſignificant) meaſure would become of more importance, and more ſervice, than twenty the moſt expenſive and buſtling operations, that ariſe from momentary and partial ſtarts of whim, vanity, or intereſt: There could not even a logg houſe be built, nor ſcarce a piquet ſtuck down in any part of the country, but what would be a neceſſary meaſure, and whoſe uſe (however trifling the thing in itſelf) would extend to the grand ſervice of the whole: There would not be a pound, ſcarce a penny raiſed, but would have its ſhare in this grand ſervice. On the contrary, while private perſons, or particular independent bodies of people, have conſulted only the momentary partial ſtarts of whim, vanity, party, or intereſt, under the influence of ſuch motives, without any general ſcheme to the defence of the country, the *taking poſſeſſion* of it, or the command of it, without any reference to any general idea, forts have been built up and down the country, that could never have been of uſe, have never been uſed, have never been ſupported, have been left to go to ruin, have been abandoned to the enemy; or, if they have been kept up at all, have been a private ſtanding job to all concerned in them: While thus large ſums of money have been ſquandered away to no uſe, or bad ones; while thus fruitleſs detached meaſures, that have

been of no uſe, but a perverſion of, and incumbrance to the general ſervice, and interfering amongſt each other, have been purſued by vague, random fits and ſtarts, the public ſervice has not only been ruined, but the people have loſt all opinion and confidence in military operations, have been diſcouraged and alienated from engaging in any active meaſures, and always ſuſpicious, that whatever ſums they give to ſuch, are either thrown away, or put into the private pocket of ſome job. On the contrary, were there ſome one general plan of operations formed, upon the practicability and really intended execution of which they might confide, the aſſemblies might be perſuaded, the people would be willing, and I verily believe, would be perſuaded to give amply and chearfully: So that it is not only neceſſary to the gaining the end propoſed, but alſo abſolutely neceſſary to the gaining the means, that ſome ſuch general plan ſhould be fixed.

In order to which, the following paper propoſes to conſider,

1*ſt*, The ſite of the country:

2*dly*, The intereſts of the poſſeſſions and ſettlements:
As the baſis of

3*dly*, The ſtate of the ſervice in America.

It becomes neceſſary to a right underſtanding of theſe propoſed objects, to recur and run up to the firſt principles on which they were founded,

not only becauſe the ſubject is *new*, but becauſe it has been miſconceived, and miſrepreſented.

1*ſt*, Prior to any obſervations on the ſettlers and ſettlements, it will be neceſſary to take ſome notice of the peculiar ſtate and ſite of the countries, in which they are ſettled: For it is the ſite and circumſtances (I mean thoſe that are unchangeable) of a country, which give the characteriſtic form to the ſtate and nature of the people who inhabit it.

The conſideration of the continent of America may be properly divided into two parts, from the two very different and diſtinct ideas that the face of the country preſents, but more eſpecially from the two diſtinct effects which muſt neceſſarily, and have actually ariſen, from the two very different ſorts of circumſtances to be found in each tract of country.

All the continent of North America, as far as known to the Europeans, is to the weſtward of the endleſs mountains, a high level plane: All to the ſouth-eaſt of theſe mountains, ſlopes away ſouth-eaſterly down to the Atlantic Ocean. By a level plane, I muſt not be underſtood, as if I thought there were no hills, or vallies, or mountains in it; but that the plane of a ſection, parallel to the main face of the country, would be nearly an horizontal plane, as the plane of a like ſection of this other part would be inclined to the horizon, with a large ſlope to the Atlantic Ocean. The line that divides theſe two tracts, that is the ſouth eaſt edge of theſe planes, or the higheſt

part of this ſlope, may in general be ſaid to run from Onondaga, along the weſternmoſt Allegehani ridge of the endleſs mountains, to Apalatche in the gulph of Mexico.

2*dly*, In conſidering firſt the main continent, this high plain, it may be obſerved, with very few exceptions in compariſon to the whole, that the multitude of waters found in it is properly ſpeaking but of two maſſes: The one compoſed of the waters of the lakes and their ſuite, which diſembogue by the river St. Lawrence; the other that multitude of waters which all lead into the Miſſiſippi, and from thence to the ocean; the former into the gulph of St. Lawrence, the latter into the gulph of Mexico.

There are in all the waters of Miſſiſippi, at leaſt as far as we know, but two falls; the one at a place called by the French St. Antoine, high up on the weſt or main branch of Miſſiſippi; the other on the eaſt branch called Ohio. Except theſe, and the temporary rapidity ariſing from the freſhes of ſpring, and the rainy ſeaſons; all the waters of the Miſſiſippi run to the ocean, with a ſtill, eaſy and gentle current.

As to all the waters of the five great lakes, and the many large rivers that empty themſelves into them, the waters of the great Otawawa river, the waters of the lake Champlain, of Trois Rivieres, and the many others that run into the river St. Lawrence above Quebec, they may all be conſidered in one maſs, as a *ſtagnation* or lake of a wilderneſs of waters, ſpreading over the country

country by an infinite number and variety of branchings, bays, ſtraits, &c. for although at particular places of their communications, and at the mouths of their ſtreams, they ſeem to pour out ſuch an immenſe ocean of waters, yet when they are all collected and aſſembled together, as at a general rendezvous where they all diſembogue themſelves into the river St. Lawrence, the whole embouchure of this multitude of waters is not larger than the * Seine at Paris; the waters of each reſpective maſs not only the leſſer ſtreams, but the main general body of each going through this continent in every courſe and direction, have, by their approach to each other, by their interlocking with each other, by their communication to every quarter and in every direction, an alliance and unity, and form one maſs, a one whole.

Let any one raiſe in his mind the idea of ſome low country incapable of being travelled, except on the roads, cauſeways, dykes, &c. that have been made through it, and that theſe roads have throughout the whole country a communication which connects and forms them into a one ſyſtem of deſign, a one whole: Such perſon will readily conceive how eaſily and with what few numbers a General may take poſſeſſion and hold the com-

* About 12 French leagues above Quebec, over againſt a place called la Loubiniere, the river St. Lawrence appears to be of a very conſiderable breadth; but when the tide, which runs up much higher than that place, has at its ebb entirely retired, that breadth which one would have judged to have been that of the St. Lawrence river, remains all day, except a ſmall channel in the middle, which does not appear to be much larger than the Seine at Paris, nor the waters of it that paſs there to have a greater current.

mand of this country; and when once poſſeſſed how eaſily he may defend it, by fortifying with redoubts and ſuch works, the ſtrong holds and paſſes in it, and at what an almoſt inſurmountable diſadvantage any one who aims to recover it muſt act, even with twenty times the numbers. If theſe roads and lines have thus a communication forming a one whole, they are the foundation or baſis of a command throughout the whole country; and whoever becomes poſſeſſed of them has the command of that country.

Now let any one behold and conſider the continent of America, as it really is, a wilderneſs of woods and mountains, incapable of land carriage in its preſent natural unwrought form, and not even to be travelled on foot, unleſs by the good will of the inhabitants, as ſuch travelling in thoſe woods and mountains is perpetually and unavoidably liable to ambuſcades, and to the having the communication from the one part to the other cut off. Let ſuch perſon alſo know, that the waters for theſe reaſons have ever been the only roads that the inhabitants uſe, and until art and force make others, are the only roads that any body of people can in general take. Compare this ſtate of country with what is above deſcribed, and the ſame concluſion, *mutatis mutandis*, will be found to be derived from it.

Seeing this, as fact and experience ſhews it to be, let ſuch perſon then recollect what is ſaid above of the communication and alliance amongſt the ſeveral waters of this continent—of the unity, one maſs, and one whole, which they form;—

he

he will ſee in a ſtrong light how the watry element claims and holds dominion over this extent of land; that the great lakes which lie upon its boſom on one hand, and the great river Miſſiſippi and the multitude of waters which run into it, form there a communication,—an alliance or dominion of the watry element, that commands throughout the whole; that theſe great lakes appear to be *the throne*, the *centre of a dominion*, whoſe influence, by an infinite number of rivers, creeks and ſtreams, extends itſelf through all and every part of the continent, ſupported by the communication of, and alliance with, the waters of Miſſiſippi.

If we give attention to the nature of this country, and the one united command and dominion which the waters hold throughout it, we ſhall not be ſurprized to find the French (though ſo few in number) in poſſeſſion of a power which commands this country; nor on the other hand, when we come to conſider the nature of this eaſtern part of America, on which the Engliſh are ſettled, if we give any degree of attention to the facts, ſhall we be ſurpriſed to find them, though ſo numerous, to have ſo little and languid a power of command even within the country where they are actually ſettled. I ſay a very ſtrong reaſon for this fact ariſes out of the different nature of the country, prior to any conſideration of the difference ariſing from the nature of their government, and their method of taking poſſeſſion of this country.

This country, by a communication of waters which are extended throughout, and by an alliance of all theſe into a one whole, is capable of being and is naturally a foundation of a one ſyſtem of command: Accordingly, ſuch a ſyſtem would, and has actually taken root in it under the French. Their various *poſſeſſions* throughout this country have an order, a connection and communication, an unity, a ſyſtem, forming faſt into a one government, as will be ſeen by and by: Whereas the Engliſh ſettlements have naturally, neither order, connection, communication, unity, nor ſyſtem. The waters of the tract on which the Engliſh are ſettled, are a number of rivers and bays, unconnected with, and independent of each other, either in intereſt or natural communication within land. The vague diſſipated random ſettlements therefore, ſcattered up and down theſe, will have no more communication or connection amongſt themſelves, than there is amongſt the various independent ſtreams they are ſettled upon.—This country, inſtead of being united and ſtrengthened by the alliance of the waters which run in it, is divided by theſe ſeveral various ſtreams, detached from, and independent of each other, into many ſeparate detached tracts, that do naturally and have actually become the foundation of as many ſeparate and independent intereſts.

As far as the communion of the waters of any river, or the communion there may be between any two rivers extends, ſo far extended will ariſe a communication of ſyſtem, of intereſt and command; the ſettlements therefore on this tract of country, would be naturally, as they are actually, divided

divided into numbers of little weak, unconnected, independent governments—Were I to point out the natural diviſion of theſe tracts and intereſts, it would point out a new diviſion of the governments of the colonies, which is not the purport of this paper.——

The conſideration of this country, ſo far as it is connected with, or has any effect upon the intereſts and politicks of the Engliſh ſettlements, preſents itſelf to view divided in two ideas. *1ſt*, The country between the ſea and the mountains: *2dly*, The mountains themſelves. The firſt part is almoſt throughout the whole capable of culture, and is entirely ſettled: The ſecond, a wilderneſs, in which is found here and there in ſmall portions, in compariſon of the whole, ſolitary detached ſpots of ground fit for ſettlements: the reſt is nothing but cover for vermine and rapine, a den for wild beaſts, and the more wild ſavages who wander in it.

Thus far of the ſite of the country, as it becomes the foundation of a natural difference between the Engliſh and French poſſeſſions in America. The next point that preſents itſelf to conſideration is, the manner in which the Engliſh and French have taken poſſeſſion of, and ſettled in this country: And,

1ſt, Of the French.

The French in their firſt attempts to ſettle themſelves in theſe parts, endeavoured to penetrate by force of arms, to fix their poſſeſſions by military

military expeditions, till through the perpetual and conſtant abortion of theſe meaſures, and the certain diſappointment and ſure loſs that attended them, they through a kind of deſpair gave over all thoughts of ſuch attempts.

Whether the dear-bought experience that they learnt from hence, or whether deſpair leaving their colony to make its own way, or whether rather, the right good ſenſe of Mr. Frontenac and Mr. Calliers led them to it, is neither eaſy nor material to determine; but ſo it was, they fell afterwards into that only path, in which the real ſpirit and nature of the ſervice led.

The native inhabitants (the Indians) of this country are all hunters; all the laws of nations they know or acknowledge, are the laws of ſporting, and the chief idea which they have of landed poſſeſſions, is that of a *hunt*. The French ſettlers of Canada univerſally commenced hunters, and ſo inſinuated themſelves into a connection with theſe natives.

While the French kept themſelves thus allied with the Indians as hunters, and communicated with them in, and ſtrictly maintained all the laws and rights of ſporting, the Indians did eaſily and readily admit them to a local landed poſſeſſion; a grant which rightly acquired and applied, they are always ready to make, as none of the rights or intereſts of their nation are hurt by it: While on the contrary, they experience and receive great uſe, benefit, and profit, from the commerce which the Europeans therein eſtabliſh with them.

Whereas

Whereas on the contrary, the Engliſh with an inſatiable thirſt after landed poſſeſſions, have gotten deeds and other fraudulent pretences grounded on the abuſe of treaties, and by theſe deeds claim poſſeſſion even to the excluſion of the Indians, not only from many parts of their hunting grounds, (which with them is a right of great conſequence) but even from their houſe and home, as by particular inſtances from one end of the continent to the other might be made appear. Upon theſe pretences they have driven the Indians off their lands.—The Indians unable to bear it any longer, told Sir William Johnſon, *that they believed ſoon they ſhould not be able to hunt a bear into a hole in a tree, but ſome Engliſhman would claim a right to the property of it as being his tree*:—And whatever the great proprietors, patentees, and land jobbers, may affirm or affect to prove, or however angry they may be with thoſe who declare this truth; this is the *ſole ground* of the loſs and alienation of the Indians from the Engliſh intereſt, and this is the ground the French work upon.—On the contrary, the French poſſeſſions interfere not with the Indians rights, but aid and aſſiſt their intereſt, and become a means of their ſupport.—This will more clearly and better appear, by a more minute and particular attention to the French meaſures in theſe matters.

1ſt, No Canadian is ſuffered to trade with the Indians, but by licence from the government, and under ſuch regulations as that licence ordains. The main police of which is this. The government divides the Indian countries into ſo many hunts,

hunts, according as they are divided by the Indians themſelves. To theſe ſeveral hunts there are licences reſpectively adapted, with regulations reſpecting the ſpirit of the nation whoſe hunt it is; reſpecting the commerce and intereſt of that nation; reſpecting the nature of that hunt.

The Canadian having ſuch licence, ought not to trade and hunt within the limits of ſuch hunt, but according to the above regulations; and he is hereby abſolutely excluded under ſevere penalties to trade or hunt beyond theſe limits, on any account whatever.

It were needleſs to point out the many good and beneficial effects ariſing from this police, which gave thus a right attention to the intereſt of the Indians, which obſerved the true ſpirit of the alliance in putting the trade upon a fair foundation, and which maintained all the rights and laws of the hunt, that the Indians moſt indiſpenſably exact.

But the conſequence of the moſt important ſervice which ariſes out of this police, is a regular, definite, preciſe, aſſured knowledge of the country.

A man whoſe intereſt and commerce are circumſcribed within a certain department, will pry into, and ſcrutinize every hole and corner of that diſtrict: When ſuch a hunt is by theſe means as full of theſe coureurs des boix, as the commerce of it will bear, whoever applies for a licence muſt betake himſelf to ſome new tract or hunt,

hunt, by which again begins an opening to new diſcoveries and freſh acquiſitions.

When the French have by theſe means eſtabliſhed a hunt, a commerce, alliance and influence amongſt the Indians of that tract, and have by theſe means acquired a knowledge of all the waters, paſſes, portages, and poſts, that may hold the command of that country, in ſhort, *a military knowledge* of the ground, then, and not before, *they aſk and obtain leave* of the Indians to ſtrengthen their trading houſe, to make it a fort, to put a garriſon in it.

In this manner, by becoming hunters and creating alliances with the Indians as brother-ſportſmen, by founding that alliance upon, and maintaining it (according to the true ſpirit of the Indian law of nations) in a right communication and exerciſe of the true intereſt of the hunt, they have inſinuated themſelves into an influence over the Indians, have been admitted into a landed poſſeſſion, and by locating and fixing thoſe poſſeſſions in alliance with, and by the friendly guidance of the waters, whoſe influence extends throughout the whole, they are become poſſeſſed of a real intereſt in, and real command over the country. They have thus throughout the country ſixty or ſeventy forts, and almoſt as many ſettlements, which take the lead in the command of the country, *not even one of which forts, without the above true ſpirit of policy, could they ſupport, with all the expence and force of Canada:* Not all the power of France could; 'tis the Indian intereſt alone, that does maintain theſe poſts.

Having

Having thus got poſſeſſion in any certain tract, and having one principal fort, they get leave to build other trading houſes and entrepôts, at length to ſtrengthen ſuch, and in fine to take poſſeſſion of more and more advanced poſts, and to fortify and garriſon them, as little ſubordinate forts under the command of the principal one.

Though theſe principal forts have ſubordinate forts dependent on them, they are yet independent of each other, and only under the command of the governor general; there is a routine of duty ſettled for theſe, and the officers and commanders are removed to better and better commands: What the particulars of this are, and of the diſtribution of the troops, I have not yet learned as to Canada; but in general the preſent eſtabliſhment for this ſervice is three thouſand men, of which there are generally two thouſand three or four hundred effective.

I have not been able to get an exact liſt of the forts in Canada, but the following is ſufficient to ſketch out the manner in which they conduct this ſervice.

It will be neceſſary firſt to deſcribe the line which now divides Canada and Louiſiana in the Illinois country. It begins from the Oubaſch at the mouth of Vermillon river, thence to the poſt called Le Rocher on the river Pæorias, and from thence to the peninſula formed at the confluence of Rocky river and the Miſſiſippi.

Forts in CANADA.

ST. FREDERICK, { St. John. / Carillon or Ticonderôga.

FRONTENAC, { L' Presentation. / Les Coudres. / Quintez.

NIAGARA, { Torento. / One other.

MISSILIMAKINAC, and its Dependencies.

DU QUESNE, { Presq' Isle. / Riviere au Bœuf. / One other.

LE DETROIT, Two { 'Twas proposed to the Court in the year 1752, to erect this into a Lieutenancy du Roy.

The POST MIAMIS and SIOUX.

NIPIGON, { Two or three. / One on the River Michipocoton. / One other on the Long River.

ST. JOSEPH, and one other

LE PETIT PARIS.

ALIBI.

SAGUENAY.

ST. JOHNS, in Nova-Scotia.

In all about sixty.

Most of these forts have fine settlements round them, and they do entirely support themselves; it

it being uſual for both officers and men to defer receiving their pay till the garriſon is relieved, which is generally in ſix years; and ſcarce any thing is ſent to theſe garriſons, but dry goods and ammunition.

There is a fine ſettlement at Detroit, of near two hundred families; a better ſtill at St. Joſeph, of above two hundred; a fine one at St. Antoine, many fine ones about Petit Paris. But the French government does not encourage theſe, and has, by a poſitive ordonance, abſolutely forbid any one to make a ſettlement without ſpecial licence; which meaſure they found neceſſary to take, in order to reſtrain the Canadians from totally abandoning Canada.

The eſtabliſhments, poſts, and ſettlements of Louiſiana, are as follow:

Thirty ſeven companies of fifty men each, and two Swiſſe companies of ſeventy five men each.

1. The garriſon of New Orleans:

French - 900
Swiſſe - - 75 } - - - - - - - - - 975

Out of which are garriſoned the outpoſts of Báhiſſe, and other ſmall poſts.

Detour Anglois: The garriſon of this conſiſts of four companies, which have their tour of duty with the Mobile, Illinois, &c.

Mobile,

Brought over	975
Mobile, eight French companies, and one Swiſſe - - - - -	475

" It is neceſſary to fix this number here, " on account of the proximity of Panſa- " cola, on one part, and of the Engliſh " on the other; as alſo to influence the In- " dians, as there are at our meetings and " treaties, held here annually with the In- " dians, ſometimes 2, ſometimes 3,000 " Indians preſent *."

Tombechbé, Alibamous, } One company each, a detachment from the garriſon of Mobile.

Four companies of this garriſon relieved every year.

The Illinois, ſix companies - - 300

The poſts were, in 1752,
- Caſkaſias.
- Fort de Chartres.
- Village de St. Philip.
- Praire de Rocher.
- Cohôkias.
- Village de St. Jeune Veuve.

The Akanſas, a leſs principal poſt, one company - - - - -	50
The Natches, one company - - - -	50
	1850

* Mr. Vaudreuil to the court.

Brought over	1850
The Nachitoches, one company - - for the preſent on account of their not being able to prevent deſertions to the Adages, a Spaniſh poſt within 7 leagues of it. They propoſe, when they ſhall be able to ſettle a cartel with the Spaniſh governor, and his Majeſty approves of it, to fix two companies there, it being a frontier poſt.	50
The Point Coupe, one company - -	50
The German Settlement, one company -	50
Total	2,000

The ſettlements of Louiſiana in general, produce Indigo equal to the Guatimalo, which admit three cuttings or crops annually; rice in great abundance, and cotton, but they find great difficulty in cleanſing it from the ſeeds that accompany its growth here; tobacco, pitch, tar; they have a trade to their own iſlands with flour, peas, beans, ſalted or corned wild beef, and pork, hams of hogs and bears, tallow, greaſe, oil, hides, lumber, planks; they have alſo myrtle wax, which they export to France; they do alſo, in ſmall quantities, manufacture the buffalo wool. From the abundance and natural growth of mulberry trees, they have their thoughts turned to ſilk; they have iron, lead, copper, and coals in abundance; beſides the ſkins and coarſe furs, ariſing from the Indian trade and hunt; they had, ſo long ago as in the year 1744, ſeveral veſſels at their port, which came from Florida and Havanna, and the bay of Campeachy, to trade for boards, lumber, pitch,

dry goods, and live ſtock, to the value of 150,000 pieces of eight. They had a ſettled treaty of commerce with the Royal Company of Havanna, by the terms of which, the French were to deliver them at Louiſiana, pitch at two piaſtres a barrel, tar at three piaſtres a barrel, boards at two reals each. Their ſettlements towards the mouth of Miſſiſippi, are almoſt deſerted and ruined, the ſettlers not being able to ſupport the expence of banking againſt the inundations of the ſea and land floods. Mr. Vaudreuil ſays, in a letter to the court, September 28, 1752, he thinks it would be much better, to defer for ſome years attempting ſettlements here, till the ground be more raiſed and elevated by the accretion of ſoil, as it has been three feet in fifteen years laſt paſt.

I mention nothing here of the poſts of New Orleans, Detour Anglois, and Baliſe, nor of Mobile; becauſe, being marine poſts, the conſideration of them does not come within the ſcope of this paper. I will obſerve, that they require our particular attention: They are become the ports to which all the men and ſtores, with which the country of the Ohio is furniſhed, are ſent annually and conſtantly; as from New Orleans to this country, the way is much ſhorter than through Canada, the diſtance being at the moſt, where they are obliged at low water to follow all the windings of the river, not more than 340 French leagues; but at the uſual times that they ſend their convoys, not more than 300, and to which they can go up with decked ſloops, nine or ten months in the year. The trade comes down from the Illinois, about the latter end of

December, and goes up towards the latter end of January, or the beginning of February.

I ſhall deſcribe the poſt of Tombechbé, from Mr. Vaudreuil's letters.

April 20, 1751. This poſt reſtrains the Alibamôus, Talapouches, Abekas, and Cowêtas, preſerves the communication between the waters of Mobile, Alibamous river and the Miſſiſippi; 'tis neceſſary for us in order to keep up amongſt the Chactaws, the ſpirit of warring againſt the Chickaſaws; tis alſo neceſſary as an entrepôt in our expeditions againſt the Chickaſaws and Engliſh. From hence we can go within ſeven or eight leagues of the villages of the Chickaſaws with periaugoes, by the river Tombechbé, over which, ſeven or eight leagues of land carriage, we can eaſily go by land, and carry cohorns and light field pieces: from hence alſo it is, that we muſt ſend out our parties againſt the Carolinians; yet this fort being a heavy expence, and with great difficulty ſupplied, and being ſo ſituated as to be of no uſe to hinder the Engliſh from going to the Chactaws, when that nation is inclined to receive them, as they may conduct their convoys a little above, or a little below the fort, without our being able to oppoſe them. This being the caſe, were the Chactaws entirely ſecured in our intereſt, were the Chickaſaws deſtroyed, and had the Engliſh loſt and given up all hopes of ſtrengthening themſelves in that quarter, as we hope to effect, I then think it would be no longer neceſſary to keep up this poſt; yet till this be effected, it muſt be kept up, and more eſpecially as by ſup-

January 6. 1746.

October 28, 1746.

March 6, 1749.

September 24, 1751.

January 12, 1751.

preſſing

preſſing it now, the Chactaws would think themſelves abandoned. This poſt, as well as Alibamôus, ſhould always be victualled for a year, leſt by any revolution in Indian affairs, the road to it ſhould be obſtructed. May 30, 1751.

As to the poſts in the Illinois country, I am not able to deſcribe them particularly; but what appears to be of more conſequence, I collect from Mr. Vaudreuil's letters, (from 1743, to 1752) the general idea upon which the fortifying and ſecuring that country is founded.

The firſt fort of their plan, in fortifying the Illinois country, was on the peninſula, in lat. 41. 30. This was a check upon, and barrier againſt the ſeveral nations of Sioux (not then in confederacy with them.) The next poſt in this plan was on the river Dorias, (ſo called after the junction of the Illinois river and Theakiki) which would be of more eſpecial uſe, if ſituated on the north of the lake on that river, whence the roads divide, that lead to Maſſilimakinac and St. Joſeph; This he deſcribes as the key to the Illinois country from Canada. July 18, 1743. Auguſt 30, 1744.

The next is the garriſoning and fortifying the country, from the mouth of Miſſouris to Kaſkaſias, where there are five poſts. Mr. Vaudreuil thinks that Kaſkaſias is the principal, as it is the paſs and inlet of the convoys of Louiſiana, as alſo of thoſe of Canada, and of the traders and hunters of the poſt Detroit, and that of the greateſt part of the ſavage nations. May 15, 1751.

There is alſo at this poſt, a river where the ſloops which come from New Orleans, may be ſafely laid up in winter.

Mr. M'Carty to Mr. Vaudruile, January 20, 1752.

But Mr. M'Carty, who was on the ſpot, thinks the environs of Chartres a far better ſituation to place this poſt in, provided there were more inhabitants. He viſited fort Chartres, found it very good, only wanting a few repairs, and thinks it ought to be kept up.

The next poſt (I take them in order of place, not of time) which comes into this plan, is on the Ohio, over againſt the mouth of the Cherokee river: This, he ſays, would be the key of the colony of Louiſiana, would be a ſufficient barrier againſt the Engliſh, and reſtrain their incroachments, and would obſtruct their deſigns in alienating the Indians of the Ohio; it would reſtrain the incurſions of the Cherokees, on the river Ouabaſh, and river Miſſiſippi; it would alſo check the Chichaſaws, and would by theſe means ſecure the navigation of the Miſſiſippi, and the communication with our poſts. He here expreſſes the greateſt uneaſineſs, (as the French court did not care to engage in the meaſure at that time) leſt the Engliſh ſhould build a fort here, in which caſe, ſays he, we muſt give up all communication with the Illinois; for the Engliſh would become maſters of all the navigation of that country.

November 4, 1745.
August 30, 1744.
May 15, 1751.
November 4, 1745.

April 8, 1752.

Mr. Jonquiere propoſes another fort at the mouth of Rocky river, (this is in the govern-

ment

ment of Canada) which, he ſays, would ſecure the tranquillity of the ſouth of Canada. This, ſays Mr. Vaudreuil, together with the poſt of the Illinois, would reſtrain and become a barrier againſt the Engliſh, and cover all our Indian allies to the weſt, from our enemies, the Engliſh, the Cherokees, Catawbas, and others.

By theſe poſts above, and the poſts of the Miamis, this whole country is ſecured and fortified. This country, ſays Charlevoix, (in 1721) will become the granary of Louiſiana, and in 1746 we find it actually becoming ſo; for in that year it ſent down to New Orleans fifty ton of flour; in 1747, we find it well furniſhed with proviſions, and having fine crops; and in a letter of Mr. Vaudreuil's 1748, we have an account of its produce and exports—flour, corn, bacon, hams, both of bears and hogs, corned pork and wild beef, myrtle wax, cotton, tallow, leather, tobacco, lead, copper, ſome ſmall quantity of buffalo wool, veniſon, poultry, bears-greaſe, oil, ſkins, and ſome coarſe furs; and we find a regular communication ſettled with New Orleans, by convoys which come down annually the latter end of December, and return at lateſt by the middle of February.

Thus the French do not only *ſettle* the country, but alſo *take poſſeſſion of it*; and by the form, ſite, and police of ſuch poſſeſſions, (led on and eſtabliſhed by the guidance of, and in alliance with the waters,) a natural foundation of a due command, have they acquired, and become poſſeſſed of *the command of this country*.

By theſe means, I repeat it, have they created an alliance, an intereſt with all the Indians on the continent; by theſe means have they acquired an influence, a command throughout the country: They know too well the ſpirit of Indian politicks, to affect a ſuperiority, a government, over the Indians; yet they have in reality and truth of more ſolid effect, an influence, *an aſcendency* *, in all the councils of all the Indians on the continent, and lead and direct their meaſures, not even our own allies, the Five nations, excepted; unleſs in that remains of our intereſt, which, partly the good effects of our trading houſe at Oſwego, and partly General Johnſon, has preſerved to the Engliſh, by the great eſteem and high opinion the Indians have of his ſpirit, truth, and honour.

* I mention nothing here of the influence of the Jeſuit miſſionaries, becauſe nothing is meant leſs than religion by them.

EAST.

In the French Intereſt.

Eſquimaux.
St. John's.
Micmacs.
Penobſcots.
Noridgwalks.
Abenakais.
St. Francis Indians.
Cachnewage.
Scaatecoke.
Oſwegatchie.

Senekes.
Onondagas.
Cayuges.
Oneides.
Tuſkaroras.
} Suppoſed to be in the Britiſh Intereſt, but greatly debauched by the French.

Mohawks.
Mehikanders.
} Wholly in the Britiſh Intereſt.

Delawares.
Shaweneſe.
} Loſt to the Engliſh, except a few on Suſquehanah.

Catawbas.
Cherokees.
Chickaſaws.
} Suppoſed in the Engliſh Intereſt, but much debauched by the French.

WEST.

French

Sioux.
Nadoneſſeries.
Illinois.
Tawigtwaes.
Miamis.
Piankeſhanaes.
Wawyactaes.
Picques.
Kaſkuſkies.
Cawetas.
Abekas.
Talaponches.
Alibamôus.
} The four Nations of the Creeks, as above.

NORTH.

Wholly French.

Aſſinipoeles.
Adirondacks.
Algonkins.
Outawawaes.
Chononderdes or Hurons.
} Skaniadereroenues.
Meſſiſagues.
Outagamies.
Miſcontiris.
Sakis.
Chriſtanaux.
Almipogins.
Nipiſenes.

SOUTH.

Oſagaes.
Akanſaes.
Chactaws.
Panimaes.
Adages.
} Wholly French.

The Engliſh American provinces are as fine *ſettlements* as any in the world; but can ſcarce be called *poſſeſſions*, becauſe they are ſo ſettled, as to have no poſſeſſion of the country: They are ſettled as farmers, millers, fiſhermen, upon bays and rivers, that have no communication or connection of intereſt, conſequently, the ſettlers belonging to theſe rivers, bays, &c. have no natural connection.

But

But further, the ſettlers upon any one river or ſet of waters, which waters having a connection, might become the natural ſeat of a one intereſt, are yet ſo ſettled, that they have no connection nor union amongſt each other, ſcarce of comunion, much leſs of defence.

Their ſettlements are vague without deſign, ſcattered, independent; they are ſo ſettled, that from their ſituation, 'tis not eaſy for them to unite in a ſyſtem of mutual defence, nor does their intereſt lead them to ſuch ſyſtem, and even if both did, yet through the want of a *police* to form them into a community of alliance, unity, and activity amongſt themſelves, they are helpleſs and defenceleſs; and thus may the Engliſh be conſidered as having, for many hundred miles, a long *indefenſible line of frontiers*, prior to the conſideration of the nature of the enemy they may be engaged with.

3dly, The ſtate of the ſervice as ariſing from the above facts.

It appears from the firſt caſt of the eye, that the Engliſh, without ſome *preparative meaſures*, will not be able to carry into execution any military expeditions againſt the French in the upper part of America; becauſe from any poſt where they can form an army, and lay in all its ſtores, ammunition and proviſion, they muſt undertake for many hundred miles, a long, dangerous, and tireſome march, by roads the moſt harraſſing, and of almoſt inſuperable difficulty, through a wilderneſs of woods and mountains, without magazines

zines of forage, &c. or any other aſſiſtance; through a coun.ry liable to ambuſcades, and all the ſtrokes of war; through a country whereof the French are poſſeſſed of the command, or if through any part where their perſonal command does not actually exiſt, yet where Indians, (the moſt dangerous enemies in ſuch a wild neſs) where the Indians, I ſay, are maſters, and poſſeſſed of every hold and paſs.

To put this matter in a ſtill ſtronger light, let any one conſider, whence ariſes the danger of marching through a fortified country; whence the danger of a general's leaving behind him any enemy's fort or garriſon, not taken.—It is that the enemy, who has poſſeſſion of theſe, has the command of the whole country, except the ſole confined ſpot, where the ſtronger army is preſent, can forbid and reſtrain the inhabitants from furniſhing you with ſuch aſſiſtance as the country is otherwiſe capable of affording; can, by ſallies from theſe poſts, cut off and intercept all your parties and convoys, all your intelligence; can cut off all communication with your magazines, and your own poſts; can perpetually harraſs and obſtruct your march, and return within cover, before any ſuperior party, ſent out from the main body, can reach them; you are alſo always liable to ſurprize, even within your camp.

A march from any poſt where the Engliſh can *at preſent* form any army, and collect its ſtores, ammunition, proviſions, carriages, &c. through the country, as at this day above circumſtanced,

is,

is, literally and preciſely in its effect, the ſame thing as the march here deſcribed.

While the Indians, whoſe chief art of war is that of forming ambuſcades, who have acquired, from practice and art, a peculiar method of ſecretly traverſing the woods and lying concealed in them;—while the Indians, whoſe military ſkill of fighting either ſingle or in parties amidſt theſe woods, renders the ſituation to them equivalent to fighting under cover;—while the Indians thus trained, and incredibly expert in the art, can at any time ſally out from the holds, faſtneſſes, lurking places, and ambuſhes, in which the country abounds, (and all which they know) nay, even from the cover of the woods, and drive in all your ſmall out parties, prevent ſuch foraging as the country will afford, intercept and obſtruct your convoys, cut off your communication of intelligence, proviſions and ſuccours, and retire again within cover, out of danger of any purſuit, and continue thus conſtantly to harraſs, and, perhaps, ſurprize your army: while they can do this, and (believe it) all this they can do and will do, your army is to all intents and purpoſes, (as to the war with the Indians) marching through a country of forts and fortreſſes. Let any one here, compare this ſtate of the caſe with the cauſe and reaſons of the failure of the ſeveral military expeditions on this continent, and its truth will be ſtill more evinced.

As then no general would think of making a campaign in any country, to reach which, he muſt march through an enemy's fortified country, without

without ſome *previous meaſures* to maintain his march and ſecure his retreat through ſuch: ſo here (I repeat it) there are ſome *previous meaſures neceſſary.*

The *firſt* of theſe meaſures is, the ſettling the police of our alliance with the [Kenunctioni] or Five-nation confederacy, upon a permanent, ſolid, and effectual baſis, ſo as to reſtore and re-eſtabliſh our intereſt with them.

The *ſecond* is, taking poſſeſſion of, and fortifying a ſyſtem of advanced poſts, entrepôts, *viz.* magazines whereat to collect ſtores and proviſions, camps from whence (within a reaſonable diſtance and by a practicable way) to make our ſortis.

Thirdly, The ſecuring the dominion of lake Ontario for the preſent, and laying a foundation for the like dominion on lakes Erie, Huron, and Michigan.

Let now any one conſider the above ſtating of the form of the country that the Engliſh inhabit, and in which the operations of our arms muſt lie: Let him raiſe in his mind ſeriouſly, the preciſe idea of the native inhabitants who poſſeſs this country, and of the kind of operations by which we are, and ſhall be attacked, and by which we may be able to defend ourſelves: Let any one, I ſay, by a ſerious attention to the above facts, form to himſelf that idea, which an actual and practical knowledge of the country would give him: Let him then be told a melancholy

lancholy truth, that almoſt all thoſe Indians, whoſe friendſhip and alliance were once our beſt and ſecureſt barrier, are now by the French debauched and alienated from us, nay even turned againſt us, and become the ſervile inſtruments of the French robberies, maſſacres, and treacherous incroachments: Let then his eye be turned upon the ſtate of our back inhabitants, ſettled in a vague, unconnected, defenceleſs manner, up to the mountains, to the very mouth of the dens of theſe ſavages.——Any one attentively conſidering the above facts, will ſee the Engliſh colonies in not only a weak defenceleſs ſtate, but expoſed to, and almoſt at the mercy of a very powerful enemy: Conſidering this, and the above facts, he would ſee how ſuperficial, wild, and falſe an idea of the ſervice that is, which would create a barrier by a line of forts; a barrier that might as well pretend to cut off the bears, wolves, and foxes from coming within it, as the Indians; a barrier that would have no more effect than ſo many ſcarcrows, unleſs you could actually build another Chineſe wall, and ſo another, ſtill advancing your wall-fence, as you advanced your ſettlements; a barrier that would take more troops to man it, than the country incloſed within it would take people to cultivate it; a line of 13 or 14 hundred miles, that is at laſt no line at all; he would, I ſay, ſee this meaſure not only impracticable, but ineffectual: Nay, were it practicable, and could it take effect, yet the inſupportable expence of it, would render it impoſſible to be engaged in. Any one reaſoning on the ideas as above ſtated, and knowing them to be what they really are, *facts*, would turn his thoughts

thoughts on thoſe objects which experience, fact, and reaſon point out to be one part of our barrier: Namely, a real and ſtable alliance with the Indians, formed on ſuch articles as ſhould give us the ſame kind of poſſeſſion and command in the Indian country, the ſame influence in Indian affairs, as the French have. And,

Firſt, As to that part of our barrier, and the ſervice which is connected with, and depends on our alliance and intereſt with the Kenunctioni, the confederacy of the Five nations, I can only repeat what I have ſaid formerly on this ſubject.

* " The original natural form under which the Indian country lay being that of a foreſt, ſtocked not with ſheep, or oxen, or horſes, not with beaſts of labour and domeſtic animals, but only with wild beaſts and game, all that the country afforded for food or raiment muſt be hunted for: The Indians, therefore, would conſtantly be, as they were in fact, not land-workers, but hunters; not ſettlers, but wanderers; they would therefore, conſequently never have, as in fact they never had, any idea of property in land; they would conſequently never have, as in fact they never had, any one common fixed intereſt, any one communion of rights and actions, one civil union, and conſequently not any government;

* This propoſal, amongſt others, was contained in a paper, delivered by the author of this memoir, to the commiſſioners of all the Colonies, aſſembled at Albany in 1754. and tranſmitted to government with their minutes.

they

they know no ſuch thing as an adminiſtrative or executive power, properly ſo called. They allow the authority of advice, a kind of legiſlative authority, but there is no civil coercion; they never had any one collective, actuating power of the whole, nor any magiſtrate or magiſtrates to execute ſuch power.

But the country now appearing under a very different form, and they, the Indians, being under very different circumſtances, ariſing from trade, treaties and war, begin to feel rather than ſee, to find by experience rather than reaſon, the neceſſity of a civil union of power and action; and that theſe circumſtances have in fact, for many years been formed, and have at length formed to them ſuch a collective power: Theſe people are preciſely in that point of circumſtances, where a community, that was before only a community of ſociety, is becoming that of government.

In all their actions, therefore, of late years, whether of treaty or war, they have recurred to *ſome agent* to actuate this power: They are not only become capable of ſuch a general leading, but their circumſtances require it. The circumſtances with which they are connected, had formed them into a ſtate, but from the circumſtances of the ſociety under which they live, they can never have amongſt themſelves a *ſtateholder*; their circumſtances require and look out for ſome ſuch; ſome ſuch they muſt have, and if we do not find ſuch for them, the French will, and are, actually attempting it. Further, as they know not, nor acknow-

acknowledge any leading power, but that of authority, there can be no nominal, visible appointment of such leader; they will never appoint such within themselves, nor will they ever submit to any one appointed from without. This was the mistake of the governor of Canada, which had like to have lost him all the Cachnuagas two years ago.

* Therefore such person or persons only, as can acquire, or actually are, in possession of this leading power, this authority with them, can be *this agent*, *this leader*, *this* STATEHOLDER."

For this manager, this stateholder, the government hath appointed Sir William Johnson; a person not only the proper one, but precisely the very and only person that the above circumstances and nature of things pointed out; the person whose knowledge of Indians, whose influence, by the opinion the Indians have of him, whose very uncommon zeal for the interest of his country, whose integrity and bravery, will, by such measures as the Indians can really and indeed trust in, if properly supported, restore this branch of our affairs to its salutary effect.

He has, in his papers, communicated by me, mentioned every thing necessary, as to the management of this Indian administration: I cannot but add, as a collateral measure, that would

* This paper was drawn up, in the year 1754. not only to suggest the necessity of the office, but to recommend Colonel, since Sir William Johnson, to be the officer. It succeeded accordingly.

ſtrengthen and finally confirm ſuch our intereſt amongſt the Indians, the making little ſettlements at Oſwego, Niarondaquat, and Niagara *, and at our other forts, by leave of the Indians.

Secondly, We ſhould then, according to good faith and truth, leave the Indians in full and free poſſeſſion of their dwelling country and hunting grounds, which the Engliſh have, in the moſt ſolemn manner, confirmed to them by treaty, and of which, by the ſame treaty, we have undertaken the protection: We ſhould guaranty and protect ſuch to them, to their uſe, and alſo all their hunting-grounds.—This part of the general ſcheme alſo, is in ſome degree carried into execution, by the inſtructions given by general Braddock to general Johnſon, for his direction in his late treaty with the Indians; which inſtructions were, at the deſire of general Braddock and governor Shirley, drawn up by your memorialiſt, having been firſt propoſed by him. This meaſure will be abſolutely neceſſary to preſerve theſe Indians to our alliance, as may be ſeen in almoſt every treaty held with them ſince the firſt ſurrender of thoſe lands; it is alſo neceſſary to ſupport ourſelves againſt the weſtern French Indians: This propoſed meaſure will be ſo far from being an impediment or hurt to our intereſt, that the greateſt advantages may be made of it, both in the means towards executing the general plan, and in the final execution of it. The uſes that

* If we had done this, or would now do it, we need never ſuffer ourſelves to think of abandoning our ſeveral diſtant poſts, on account of the very enormous expence of maintaining them.

may

may be made of this meaſure towards the executing of this plan, are, That while we are undertaking the protection of the Indian country and hunting grounds, we are actually becoming poſſeſſed of the command of the country. Of which, in the whole, when we are poſſeſſed of the command and protection (by means of a very few forts neceſſary to be erected, which I do not here mention) upon which, in part, according to the propoſed colonies and ſettlements, when we are ſettled, the Indians will be preſerved and protected to their ſatisfaction, and yet cannot move to war, nor even to hunt, nor ſubſiſt, but as they maintain their alliance with the Engliſh; and yet in conjunction with us, their whole force by theſe means being become infinitely greater, may be directed at any time into the heart of the enemy's country.

Thirdly, As to the adminiſtration of * Indian affairs to the ſouthward, the firſt ſtep neceſſary to

* Theſe Indians are the Catawbaes, Cherokees, Chickaſaws, and Creeks. The Creeks are in part debauched and alienated from us by the French, and attend the French treaties conſtantly at the Mobile, eſpecially the Alibamôus, Cowëtaes, Talapôuches, and Abekaes, and are in great meaſure held under ſubjection by the French forts at Alibamôus, and tombeckbá.

The Chickaſaws are greatly weakened, and almoſt ruined by the intrigues of the French within them, and by the wars with the Chactaws, and other French Indians, being unſupported by us.

The Cherokees and Catawbaes, but ill ſupported by us, are conſtantly harraſſed and warred upon by the Five Nations, at the inſtance of the French influence among that people.

be taken is, that there be an abſolute ſtop put to all provincial adminiſtration; that there be no more agents, commiſſaries, or interpreters, appointed by, and acting under the private orders of a particular province or proprietories, from whence ariſes interferings and confuſion, and oppoſition in our Indian affairs, always to the obſtructing, often to the utter ruin, of the Britiſh general intereſt.

Inſtead of theſe, there ſhould be one only principal commiſſary (who underſtands the language and intereſt, and is acquainted with the people of that nation) appointed ſeverally to each nation: This perſon ſhould have under him ſeveral ſtore-keepers and ſmiths.

All theſe principal commiſſaries ſhould be ſubordinate to a one general agent or ſuperintendent *, who ſhould be under the orders of the commander in chief only,—acting by his orders and inſtructions, form'd on a *one general idea* of the Engliſh and Indian intereſt, of our alliance, and of the meaſures to be conſtantly and uniformly purſued.

As the being ſupplied with European goods, is to the Indians the firſt eſſential intereſt of their politicks, is the ſole and actual object of their alliance with us, and the only real and permanent motive of their attachment to us; and as, according to the cuſtom of theſe people, all pub-

* *N. B.* There has been one ſince appointed, Mr. Stewart, a very active, intelligent, and able man.

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lic tranſactions are executed by exchange of preſents, all public friendſhip preſerved and animated by public hoſpitality and liberality, the firſt and fundamental object of the Engliſh meaſures ſhould be to provide for theſe, in a regular and ſufficient manner. The being able to do this, is our peculiar advantage and ſuperiority over the French in theſe affairs; their meaſures are perpetually impeded and diſtreſſed, through their being unable to do this; it is the only difficulty that they have not ſurmounted, and cannot ſurmount; it is this that makes our alliance, if we did conduct it as we ought, the true and natural intereſt, the true and natural politicks of the Indians.

There ought therefore to be concluded with theſe ſouthern nations, a general alliance of friendſhip and mutual defence and aſſiſtance, founded on the Britiſh general intereſt, not any provincial private one, upon a one general, uniform plan: The *1ſt* article of which ſhould be, To do juſtice to all their claims, to redreſs all their wrongs.

2*dly*, To maintain with them all public hoſpitality and friendſhip, by public, annual, and occaſional preſents, by entertaining them, and by all other uſual aſſiſtance, to eſtabliſh a fair and juſt trade with them, and ſettle ſtores within their countries, or wherever is moſt convenient for them, with a conſtant ſupply of goods at a ſettled and cheaper rate than the French do ſupply them.

3*dly*, Mutually to aſſiſt each other againſt all attempts of the French or their Indians, or any hoſtile attempt whatſoever upon either; conſtantly and faithfully to give all intelligence to each other, to mend their guns when they have occaſion to go to war, to ſupply them at ſuch times with ammunition, and always to ſend ſome of our people along with them if they require it, except againſt Indians in alliance with the Engliſh; and whenever the Engliſh call upon them, to go out with them to war, that the Engliſh ſupply ſuch as want them, with arms, and *all* with proviſions and ammunition, and defend and maintain their wives and children in the mean time.

This being done, a fund capable of anſwering the above engagements, and of conſtantly and faithfully executing them, and alſo capable of ſupporting an adminiſtration of Indian affairs, that may work effectually to the preſerving and maintaining the Britiſh intereſt in ſuch meaſures, ſhould be ſettled on a general and permanent foundation; which may be as follows:

That the ſeveral colonies who have hitherto conſtantly raiſed monies for Indian affairs, as a private provincial ſervice, ſhould for the future appropriate ſuch monies to this general fund.

That ſuch colonies as have never raiſed any monies for theſe ſervices, ſhould, for the future, raiſe and appropriate to this fund, ſuch ſums under a quota, in proportion to the benefit received, or the harm avoided, by the barrier ariſing from this

this general alliance and adminiſtration of Indian affairs; and it becomes worthy of conſideration, whether the iſlands in the Weſt Indies, their intereſt being inſeparably connected with that of the continent, ſhould not bear a certain proportion of taxes towards the charge of the war.

Matters within ourſelves being thus prepared and provided for:

The firſt ſtep of our meaſure in this branch ſhould be, eſtabliſhing, by the advice of people of the beſt authorities, and moſt knowledge of the affairs of each nation reſpectively, at proper places, general magazines for this ſervice, at the moſt convenient entrepôts between *marine and inland navigation* of carriage, whence leſſer ſtores, reſpectively ſubordinate to theſe, might be beſt ſupplied within the Indian countries, or where is moſt convenient for the Indians: As for inſtance, one at Schenectady, or rather at Mount Johnſon;——one either at William's ferry on the Potomac, or at Fort Cumberland on Will's creek;—one other ſomewhere on the Roanoak, or James river;—one other at fort Auguſta, on the Savanah.

From theſe general magazines, the ſeveral national or tribe-ſtores ſhould be conſtantly ſupplied: Theſe ſtores ſhould be alſo public truck-houſes, and the ſtore keeper be alſo a public truck maſter: Theſe to be fixed in each particular nation, in ſuch places, and in ſuch number as hath been uſual, or will be beſt for the good of the ſervice, at each of which there ſhould alſo be

a ſmith. The commiſſary appointed to the affairs of each nation, to command and ſuperintend all the ſtore keepers, truck maſters, ſmiths, and all the ſtores, and to be conſtantly circuiting through theſe, living always at ſome one of them, and attending reſpectively at any of them, whereſoever he is commanded by the general agent, or the good of the ſervice requires: Alſo at all times (unleſs in matters of a more public general import, when the general agent is to attend) to negotiate and tranſact all matters of buſineſs which ſuch nation may have to do with any other, or with any colony, and to interpret between the Indians of the nation he is appointed commiſſary to; and in general, within the powers of his inſtructions, to do all thoſe matters and things as have uſually been done by provincial agents or interpreters; that the ſtore keepers and ſmiths do keep conſtant journals, and make report to the commiſſary; that the commiſſaries keep a regular journal of theſe reports, and of their own tranſactions, and report to the general agent, and he likewiſe to keep a journal and record, and report to the commander in chief.

The order then of the public preſents, the public hoſpitality and liberality being ſettled, according to the nature of thoſe Indians and our alliance with them:

The method and laws of the trade with them being alſo ſettled:

The next ſtep to be obſerved, I take entirely from the French; and it is a meaſure, according to

to my idea, abſolutely neceſſary. Obſerving the want of ſubordination among the Indians, the French make a number of ſachems, to whom they give medals and appoint them to preſide as chiefs, leaders, counſellors, ſpeakers, &c. ſome over eight, ſome over ten villages, and ſo on as their influence extends; being eaſily, by preſents and money, poſſeſſed of theſe medal-chiefs, they thus eaſily acquire a more uniform and ſtable management of their Indians, than the Indians even know of amongſt themſelves.

Let it be a ſtanding inſtruction, faithfully in all and every matter, to execute and fulfil, according to the true ſpirit and intent, the above treaty and alliance, both as to the true intereſt of the Indians, and as to the forming their alliance into a firm barrier againſt the French, and enemy Indians.

The ſeveral people employed in Indian affairs to have conſtantly in view, the ſcheme *of uniting the ſeveral nations into a confederacy* like that of the Five Nations. In order to this, that there be found out and fixed upon ſome one place in the back country, whereat the general agent ſhould hold all his general treaties and parlies with theſe Indians, as the French do at the Mobile; which place, upon the ſucceſs of this ſcheme, to be the council place,—as Onondaga is to the Five Nations. Let any one conſider how a little republick, formed by the Welinis on the river Ouäbaſch, by ſome free and independent Indians, did greatly embaraſs, and had well nigh ruined the French affairs there.

This

This third branch (according to my idea of our barrier) being thus or in ſome ſuch way provided for and adminiſtered;

The fourth, is, that of *a ſyſtem of magazines and fortified camps* as entrepôts, whereat either to collect for defence, or from whence, within a reaſonable diſtance and by a practicable way, to make our ſortis. This branch is in part provided for; for by removing and advancing theſe ſtores, and at length, when a proper place is found to fix them on, that would defend and command the country, getting leave to fortify them, and ſo erect them into forts, the Indians are defended, are at the ſame time held within proper terms, and we have within a friend's country, advanced poſts or entrepôts,——that would anſwer all the purpoſes of defenſive or offenſive operations againſt the enemy; and all that could be in this place ſaid on that head, I have very minutely entered into in that part, where I explain the nature and ſtate of the country and its inhabitants. I will only add their opinion of one poſt, which we once had, and of another that they feared we were about to make.

Mr. Vaudreuil, governor of Canada, in his letter to the court, May 10, 1744, mentioning the leave which the Engliſh had got to build a fortified trading houſe at Ockfuſques, amongſt the Creeks, ſays, " If the meaſure of which this might be a foundation, ſhould be properly carried into execution, it would oblige the French

to

to retire from their fort of Alibamôus down to the Mobile."

And again in another letter, September 17, 1744, he mentions this ſtore-houſe having opened a traffick with the Chactaws,—yet this the Engliſh abandoned; and the French have now a fort on each main branch of the river Mobile; one at Tombechbé, and fort Toulouſe at Alibamôus.

In another letter of November, 1748, he ſays, it would be very eaſy for the Engliſh, by means of the river Ohio, to form an entrepôt at Prudehomme to ſerve them as a retreat, having the nations of the Shawoänaes, Cherokees, and Chickaſaws, on their back to ſupport them. From this entrepôt, it would not be difficult for them to penetrate to the Ackanſas, Panis, Oſâges, Padouces, and Miſouris, and all the other nations of that country, if the poſts and ſettlements of the Illinois were broke up, as they would certainly be, did the Engliſh ſettle and fortify at Prudehomme; not only the inhabitants of the Illinois would be loſt to us, but alſo the inhabitants near New Orleans, would be ſo greatly diſtreſſed for the want of the ſuccours and proviſions of this country, the granary to it, by loſs of the benefit of the trade with that poſt, it would be difficult for them to ſubſiſt, it would be impoſſible to maintain the expence they muſt live at without it, and they muſt be obliged to abandon the colony: But ſhould not matters be ſo bad as this, yet, were the poſt of

the

the Illinois taken away, the colony would not be able to extend itſelf at furtheſt, beyond the poſt of the Natches, without a very ſtrong garriſon at the poſt of the Ackanſas, and at beſt that poſt would be too low to cover the hunting country.

When ſuch forts are erected, the commanding officer at each fort ſhould be a kind of comptroller on the commiſſary or ſtore keepers for that diviſion, and ſhould be furniſhed with proviſions and neceſſary ſtores to make preſents to, and to entertain the Indians when they come to him, and to ſupply their neceſſities: He ſhould, for this reaſon, have a right to make an order on the magazine of his diviſion for this purpoſe.

Fifthly, In other parts of our frontier, that are not the immediate reſidence and country of Indians, ſome other ſpecies of barrier ſhould be thought of, of which nothing can be more effectual than a barrier colony; but even this cannot be carried, as is hereafter explained, into execution and effect, without this previous meaſure of a ſyſtem of entrepôts in the country between us and the enemy. *The nature of this* ſyſtem, muſt depend on the nature of the ground, which can only be determined by a particular view, and will then immediately be beſt known to military men; but all mankind muſt know that no body of men, whether as an army, or as an emigration of coloniſts, can march from one country to another, through an inhoſpitable wilderneſs, without maga-

magazines, nor with any ſafety without poſts, communicating amongſt each other by practicable roads, to which to retire in caſe of accidents, repulſe, or delay.

It is a fact which experience evinces the truth of, that we have always been able to outſettle the French, and have driven the Indians out of the country more by ſettling than fighting; and that wherever our ſettlements have been wiſely and completely made, the French neither by themſelves, nor their dogs of war, the Indians, have been able to remove us. It is upon this fact that I found the propriety of the meaſure of ſettling a barrier colony in thoſe parts of our frontiers, *which are not the immediate reſidence or hunting grounds of our Indians.* This is a meaſure that will be effectual, and will not only in time pay its expence, but make as great returns as any of our preſent colonies do; will give a ſtrength and unity to our dominions in North America, and give us *poſſeſſion* of the country as well as *ſettlements* in it. But above all this, the ſtate and circumſtances of our ſettlements renders ſuch a meaſure not only proper and eligible, but abſolutely neceſſary. The Engliſh ſettlements, as they are at preſent circumſtanced, are abſolutely at a ſtand; they are ſettled up to the mountains, and in the mountains there is no where together, land ſufficient for a ſettlement large enough to ſubſiſt by itſelf and to defend itſelf, and preſerve a communication with the preſent ſettlements.

If

If the Engliſh would advance one ſtep further, or cover themſelves where they are, it muſt be at once, by one large ſtep over the mountains, with a numerous and military colony. Where ſuch ſhould be ſettled, I do not now take upon me to ſay; at preſent I ſhall only point out the meaſure and the nature of it, by inſerting two ſchemes, one of Mr. Franklin's; the other of your memorialiſt; and if I might indulge myſelf with ſcheming, I ſhould imagine that two ſuch were ſufficient, and only requiſite and proper; one at the back of Virginia, filling up the vacant ſpace between the Five Nations and ſouthern confederacy, and connecting, into a one ſyſtem, our barrier: The other ſomewhere in the Cohaſs on Connecticut river, or wherever beſt adapted to cover the four New England colonies. Theſe, with the little ſettlements mentioned above, in the Indian countries, compleats my idea of this branch.

The dominion then of the lakes being maintained by a *Britiſh navy* of armed veſſels, ſuited to the nature of the ſervice, according to a plan propoſed by your memorialiſt, in June 1754, to the commiſſioners met at Albany; which part of the general frontier is, according to that propoſal, by order from England, and at the expence of the crown, now carried into execution, compleats the whole of my idea of this frontier.

Theſe matters being thus propoſed, I do not at all enter into that point of their execution which is the duty of the military, as it is a mat-

ter in which the judgment of a civil man may not have its weight, nor into the manner of removing the French from their encroachments; yet I cannot but in general obſerve, that as the preſent military object of his Majeſty's ſervice in this country, is either to erect forts, or to demoliſh thoſe erected by the French on his Majeſty's lands; and as the way to all ſuch lies through woods and wilderneſſes, there is a proper ſphere of action peculiar to each, both for his Majeſty's regular troops, and for the provincial troops of the country. The provincial forces of theſe countries, as irregulars or light troops, can, the beſt of any forces in the world, eſcort his Majeſty's troops through theſe woods, to where their proper ſcene of action lies; they can alſo in the ſame manner hand up all their convoys, and would, I am perſuaded, ſhould any occaſion call for their ſervice, act with bravery and ſpirit: They are alſo fit for what may be properly called an expedition, ſome excurſion a la bruſque of ten or twenty days continuance: They ſhould therefore be employed either as a covering army, or kept with the regular army, in companies of light infantry, for eſcorts, ſcouring and ſcouting parties; while the regular troops, as a main body, marching by theſe means without being harraſſed, ſuſtain them; while his Majeſty's troops alone are fit for the various duties and ſervices of a continued regular campaign, and for the fatigues and perſeverance, and ſkill, neceſſary in a ſiege.

I muſt

I muſt alſo obſerve, that this is not propoſed as a ſcheme to be executed all at once; but, as a general plan of operations, to be preſerved and attended to in the whole; to which every part of our meaſures, as they ſhall ariſe into action and come upon the field, are to be referred; to which, in all ſeaſons and at all occaſions, as from time to time ſuch ſhall offer or ſerve, our meaſures muſt be directed; and to which every individual, and every part, muſt conſpire and co-operate to form a whole.

T. POWNALL.

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SECTION II.

THE ideas of the ſervice contained in the paper above, lead by fair conſequence to the following propoſition, that after the Engliſh had been repeatedly diſappointed in their attempts to penetrate the country, by the way of Crown-point and lake Champlain, and had loſt Oſwego and the command of the lake Ontario, conſidering the reaſon there was alſo to expect the defection of the Indians in conſequence of it, there remained no other alternative, but either to make peace, *or to change the object of the war*, by making a direct attack, up the river St. Lawrence, upon Quebec itſelf, urged to a total deſtruction of Canada. The writer of theſe papers came over to England in the latter end of the year 1756, to propoſe and ſtate theſe meaſures, nearly in the ſame form as was afterwards repeated by the paper that follows, particularly marking the neceſſity of two fleets, and two armies: One army deſtined for the attack; the other under orders to inveſt Canada, by taking poſt ſomewhere between Albany and Montreal, ſo as to cover the Engliſh colonies: One fleet to eſcort and convoy the army up the river St. Lawrence; and the other to cover and protect the ſea-line of the colonies. The object was adopted. Why nothing was done in the year 1757, and why no more was done in the

year 1758, than the taking of Louïſbourg, will be explained on a future occaſion; the ideas contained in the following paper lead to the reſt.——

IDEA of the SERVICE in AMERICA, for the year 1759.

BOSTON, December 5th, 1758.

IF the point diſputed between us and the French, be determinately and preciſely underſtood, the manner of conducting it may be ſoon fixed: If we are ſtill, as we were at the firſt breaking out of the war, diſputing about a boundary line, and for the poſſeſſion of ſuch poſts, communications and paſſes, as may be *a foundation* to our poſſeſſions *of a future dominion* in America, we are ſtill engaged in a petty ſkirmiſhing war: from the ſtate of which it was always plain, and experience now proves it, that we ſhall ever be inferior, and beaten by the French; for the French have long ago, by a continued ſyſtem of meaſures, been taking poſſeſſion of ſuch poſts as hath given them that foundation: They have already eſtabliſhed that which we muſt fight to eſtabliſh, inch by inch.

If we have changed the point, and brought it to its true iſſue, its natural criſis, whether we, as provinces of Great Britain, or Canada as the province of France, ſhall be ſuperior in America; then the ſervice to be done, is *a general invaſion of*

of Canada, in conjunction with the European troops and fleet; then is our natural ſtrength employed; and we muſt conſequently be as naturally ſuperior.

This being fixed, the next point is, where the real attack muſt be made: the ſame reaſons that ſhow the neceſſity of ſuch a general attack, ſhow that it will *never effectually be carried on over land*; for, if it could, Canada might as effectually be deſtroyed, by the petty ſkirmiſhing war, for poſts, paſſes, &c. as by a general invaſion. But experience has now ſhown, what reaſon might have ſeen ſome time ago, that as the ſtate of the ſervice is circumſtanced between us and the French, that cannot be; the poſſeſſion which the enemy has of the poſts of ſtrength, the carrying places, paſſes, water communications, and roads, by forts, redoubts, and their Indians, would render the paſſage to Canada by land, the work of a campaign, even with ſucceſs; but finally alſo, the ſucceſs doubtful. The road to Quebec, up St. Lawrence river, we poſſeſs by *the ſuperiority of our marine navigation.* There is neither danger nor difficulty, nor do I ſee how there can be any oppoſition, to hinder the fleet getting up to the iſland of Orleans; and a ſuperior army in poſſeſſion of that, may, by proper meaſures, command the reſt of the way to Quebec. If our army can once ſet down before Quebec, it muſt take it: If Quebec be taken, the capitulation may at leaſt ſtrip Canada of all the regulars; after which the inhabitants might poſſibly be induced to ſurrender.

If this attack be determined, the fleet of tranſports will be eſcorted up the river by the frigates, bombs, and other ſmall veſſels of war: *But while our forces are all up the river, a very ſtrong ſquadron ſeems neceſſary to cover the maritime parts of our own colonies.*

I am told, that many French veſſels proceed early in ſpring, to the bay of Gaſpee, before the river St. Lawrence is navigable, and lie there till the river breaks up, then ſlip up without danger, when for ſome time it would be almoſt impoſſible to croſs the gulph; for as ſoon as the ice breaks up in the river, it is preſently clear; but the ice embayed in the gulph, ſwims about for a long time, and renders the navigation of that gulph extreamly dangerous, long after the river may be navigated with ſafety. If this fact be true, it ſeems neceſſary, that two or three of the ſhips of war ſhould proceed to Gaſpee, before the river St. Lawrence breaks up, in order to prevent any ſuccours being ſent up the river in ſpring.

But although this attempt on Quebec, by way of St. Lawrence river, may be the only real, and will be the only effectual attack on Canada; yet one other, if not two falſe attacks will be neceſſary, one by way of lake Champlain; the other by way of lake Ontario. That by way of lake Champlain may, as far as Crown-point, be offenſive, and ſhould then change into a defenſive meaſure, by taking ſtrong poſt there, with a garriſon which will effectually check the enemy at that gate of the country, and from whence

continual ſcouting parties, to harraſs the ſettlements, and beat up the quarters of the enemy, ſhould be ſent down the lake. As there are now ſo many regiments at Albany, Sckenectady, fort Edward, and the poſts on the river, the taking fort Carillon, at Ticonderôga, and of conſequence fort St. Frederick at Crown-point, might be effected with theſe, together with ſuch provincials as ſhall be thought neceſſary, (if not in winter) yet, before the time for embarking for St. Lawrence river approaches: and this time appears the more proper, as it may poſſibly be before the French can ſufficiently relieve it. The reaſon that makes me think that this ſhould be attempted is, that the poſſeſſion of this poſt is an effectual inveſting of Canada in that quarter: The reaſon why I think no more ſhould be attempted is, that it *would prove unſucceſsful*, and that all the labour and expence that is employed in the attempt, is loſt as ſoon as it is given over.

As we have now ſo good an entrepôt towards lake Ontario, as the fort at the Oneida carrying place, it is now in our power to attempt acting on that lake; the want of this rendered all attempts there before, abortive and unſupportable. An appearance of an attack on Canada by that way, muſt greatly alarm the enemy at Montreal; and, though I do verily believe we ſhall never ſucceed to make an effectual irruption that way, *until Quebec be taken*, yet as whatever ſhall be done on that lake towards ſuch an attempt, viz. taking poſt at ſome part on the lake, and building veſſels, will have a collateral effect; even

ſuppoſing the firſt to prove abortive, that will prove a moſt eſſential point of ſervice, namely, the gaining dominion of the navigation of the lake. So that ſhould nothing elſe be done, yet what is done, and what is ſpent, will not be thrown away; but remain a chief corner-ſtone in the foundation of the Britiſh dominion in America:—Beſides, if we remain, during the campaign, ſuperior in the lake, the enemies communication with their ſouthern poſts is cut off, their connection with the Indians of the Five Nations interrupted; and we may, in the courſe of chances, poſſibly take Niagara. This amphibious kind of ſervice ſeems adapted to the provincials, eſpecially thoſe of New York and Rhode Iſland, accuſtomed to privateering and batteauing: but theſe ſhould be ſupported by good garriſons of regulars, in ſuch poſts as may be found neceſſary to be taken at the entrepôt on the Oneida carrying place, and at the port it ſhall be found neceſſary to poſſeſs on the lake.

As to the number of regular troops neceſſary for the attack on Quebec, I have not preſumed to ſpeak, for I am no judge; but a number of provincials will certainly be neceſſary, and theſe ſuch as are uſed to the water, and marine navigation, for ſuch will be of the moſt eſſential ſervice in the paſſage of the army from the lower end of the Iſle of Orleans to Quebec, where moſt of the difficulty and danger will lie. Now for this ſervice, none can be ſo well adapted as the people of the province of Maſſachuſetts Bay, as they are all, in the ſouthern parts, whalers and fiſhermen. After the troops are landed near Quebec, numbers will be

be wanted, ſuch as are uſed to carrying heavy lumber and timber, &c. through the woods. Now for this ſervice, none can be ſo well adapted as the inhabitants of New Hampſhire, and the county of York, in the province of Maſſachuſetts Bay, who are ſo perfectly accuſtomed to the maſting ſervice, that is, fetching the great maſts down from the woods; beſides, the people of Maſſachuſetts in the counties of Hampſhire, Worceſter and York, are the beſt wood hunters in America; and would therefore, diſpoſed in proper out-poſts, be the beſt adapted to the keeping the camp before Quebec quiet from the enemies partizans and Indians, or perhaps in breaking up the enemies ſettlements in the country, while the regulars were taking their towns. For this purpoſe alſo, I ſhould think, if about a hundred thorough wood hunters, properly officered, could be obtained in the county of York, a ſcout of ſuch might make an attempt upon the ſettlements by way of Chaudier river. Such a ſcout, to the purpoſes of alarming and keeping the enemy in abeyance there, or perhaps breaking up the ſettlements, is practicable; and, I think, with early notice, ſuch a ſcout may be obtained.

Theſe are the ſervices our people are fitted for; and therefore, as far as relate to the people of the province his Majeſty has committed to my care, I can be poſitive, that if his Majeſty's General would have a real and effectual ſervice from them, they muſt be employed in ſuch. Take thoſe who live inland and carry them to ſea, or thoſe who have lived by the ſea, and march them through the woods, they will be uſeleſs and ſickly.

Employ each in their proper element; let thoſe who are naturally connected with Hudſon's river, and acquainted with inland navigation, be employed up in the back country, and lakes to the weſtward; and thoſe who border on the ſea, and are uſed to marine navigation, be employed in the ſervice that goes by ſea to the eaſtward; and then for every ten men on paper, there will be ten men's real ſervice.

I have in this paper confined my idea to the invaſion of Canada, and the attacks on that country, and ſo have ſaid nothing of that very neceſſary ſervice, the erecting a fort at Penobſcot river, which on different occaſions I have before repeatedly expreſſed.

I have confined my idea to Canada, and have therefore ſaid nothing of fort Du Queſne; but if I had extended my idea to that part, I ſhould have endeavoured to conſider how far, or not, it might be practicable to break up the enemies ſettlements on the Ohio, and the Illinois country, founded on this opinion of Mr. Vaudreuil himſelf, in his letter to his court, when governor of Louiſiana, November 1748.——"It would be very eaſy "for the Engliſh, by means of the river Ohio, "to form an entrepôt at Prudehomme, to ſerve "them as a retreat, having the nations of the "Shawöaneſe, Cherokees and Chickaſaws on their "back and to ſupport them. From this entre-"pôt it would not be difficult to penetrate to the "Akanſaes, Panis, Olagues, Padouces, and "Miſſouris, and all the Ohio nations of that "country, if the poſts and ſettlements of the

"Illi-

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" tainly be, did the Engliſh ſettle and fortify
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" inhabitants near New Orleans would be ſo
" greatly diſtreſſed for want of the ſuccours and
" proviſions of this country, *the granary to it*,
" by the loſs of the trade with that poſt, that it
" would be difficult for them to ſubſiſt, it would
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" not matters be ſo bad as this, yet, were the
" poſts of the Illinois taken away, the colony
" would not be able to extend itſelf at furtheſt
" beyond the poſt of the Natches, without a
" very ſtrong garriſon at the poſt of Akanſaes,
" and at beſt that poſt would be too low to *cover*
" *the hunting ground.*"

I ſhould have extended my idea to an attempt by a Weſt India ſquadron, with troops raiſed in the iſlands on Mobile, for nothing would more embarraſs the enemy's Indian affairs in Louiſiana, than the taking this place, the grand rendezvous at all their treaties. For they ſupport a garriſon here; amongſt other reaſons, for this alſo, (as Mr. Vaudreuil, in one of his letters to the court, ſays) " to influence the Indians, as there are
" at our meetings and treaties, held here annu-
" ally with the Indians, ſometimes 2, ſometimes
" 3,000 Indians preſent."

I ſhould alſo have recommended the taking poſt at Ockfuſqué amongſt the Creeks, becauſe,

ſays

fays Mr. Vaudreuil, " If the meaſures of which " this might be a foundation, ſhould be properly " carried into execution by the Engliſh, it would " oblige the French to retire from their fort at " Alibamôus down to the Mobile."

T. POWNALL.

To the Right Honourable
Mr. Secretary Pitt.

The reader is here deſired to refer to the events of the year 1759 in America.

Quebec was taken by general Townſhend, the moment that the army was enabled to ſet down before it, by the greatly hazarded, and glorioufly ſucceſsful ſtroke of general Wolf.

The operations of the army under general Amherſt, could not, by all the ſkill and determined perſeverance of that excellent officer, be puſhed further than Crown-point, and there became defenſive by fortifying that point.

The operations up the Mohawks river, and on lake Ontario, were carried juſt to that effect which opened the way for the next campaign, 1760, when general Amherſt went that way to take poſſeſſion of Canada.

Amidſt theſe objects, I mention the taking poſſeſſion of the Penobſcot country, and the building a fort there by the governor of the Maſſachuſetts province, merely as it was propoſed in the paper above,

above, and as the propoſal and execution of it was approved by the King and his miniſters at that time.

The whole fleet was taken up the river St. Lawrence, where, as general Wolf expreſly declares, it was a part of the force leaſt adapted to the object: The ſea-line of the colonies was left uncovered and open. If the French had had ſenſe enough to have ſent two ſhips of the line, with a frigate or two, and one or two bomb-ketches, they might have burnt Halifax, Boſton, New York, or Philadelphia, without interruption; or even if ſuch meaſure had not been carried to that degree of ſucceſs, they might have raiſed ſuch an alarm as ſhould have broken up ſome of our active, offenſive operations, in order to come to the defence of this ſea-line; and, perhaps, thus the whole of the operations of 1759, have been diſconcerted and defeated. To enquire why this was done, would at this time become a mere criticiſm, for as, by good luck, no ſuch accident happened, it is right that ſucceſs ſhould juſtify every meaſure,

To give reaſons why nothing was attempted towards the quarters of Louiſiana at that time, will be the ſolution of ſome future diſcuſſion.

SEC.

SECTION III.

The following inſtructions, referr'd to in page 36, Appendix, drawn up by T. POWNALL, and recommended to General BRADDOCK, were, by that Officer, ſent to Col. JOHNSON.

YOU are to produce to the Indians of the Six Nations, a deed which will be delivered to you by Col. Shirly, and in my name, to recite to them as follows.

Whereas it appears, by a treaty of the Five Nations, made at Albany on the nineteenth day of July 1701, with John Nanſan Eſq; Lt. Governor of New York, That the ſaid Five Nations did put all their Beaver Hunt, which they won with the ſword, then eighty years ago, *under the protection of the King of England*, to be guarantied to them and their uſe. And it alſo appearing, by a deed executed in the year 1726, between the Three Nations Cayouges, Senecaes, and Onondagaes, and the then Governor of New York, that the ſaid Three Nations did then ſurrender all the lands lying and being, ſixty

miles

miles diſtance, taken directly from the waters into the country, beginning from a creek called Canahoqué on the lake Oeſwego, extending along the ſaid lake to the falls of O'niagära, and along the lake Cataraquis to Sodons creek, and from Sodons creek, to the hill called Tegechunckſerôde, and from thence to the creek called Cayhunghâge, as is particularly deſcribed in ſaid deed, including all the caſtles of the aforeſaid Three Nations, with all the rivers, creeks, and lakes within the ſaid limits, to *be protected and defended* by the King of Great Britain his heirs and ſucceſſors for ever, to and for the uſe of them the ſaid Indians, their heirs and ſucceſſors for ever.

And it appearing that the French have, from time to time, by fraud and violence, built ſtrong forts within the limits of the ſaid lands, contrary to the covenant-chain of the ſaid deed and treaties: You are in my name, to aſſure the ſaid Nations, that I am come, by his Majeſty's order, to deſtroy all the ſaid forts, and to build ſuch others *as ſhall protect and ſecure* the ſaid lands to *them, their heirs and ſucceſſors* for ever, according to the intent and ſpirit of the ſaid treaty, and do therefore call upon them to take up the hatchet, and come and take poſſeſſion of their own lands.——

SEC-

SECTION IV.

The following is referr'd to in page 47.

Pro Johanne Caboto & filiis ſuis ſuper terrâ incognitâ inveſtigandâ.

Rex omnibus, ad quos &c. Salutem.

A. D. 1496. A. 11. H. 7. NOTUM ſit et manifeſtum, quod dedimus & conceſſimus, ac per præſentes damus & concedimus, pro nobis & hæredibus noſtris, dilectis nobis Johanni Cabotto, civi Venetiarum, ac Lodovico, Sebaſtiano, & Sancto, filiis dicti Johannis, & eorum ac cujuſlibet eorum hæredibus & deputatis, plenam ac liberam auctoritatem, facultatem & poteſtatem navigandi ad omnes, partes, regiones, & ſinus maris orientalis, occidentalis, & ſeptentrionalis, ſub banneris, vexillis & inſigniis noſtris, cum quinque nabibus ſive navigiis, cujuſcumque portituræ & qualitatis exiſtant, & cum tot & tantis nautis & nominibus, quot & quantis indictis navibus ſecum ducere voluerint, *ſuis & eorum propriis ſumptibus & expenſis*;

Ad

Ad inveniendum, diſcooperiendum & inveſtigandum quaſcúmque inſulas, patrias, regiones, ſive provincias gentilium & infidelium, in quacumque parte mundi poſitas, quæ Chriſtianis omnibus ante hæc tempora fuerunt incognitæ.

Conceſſimus etiam eiſdem & eorum cuilibet, eorumque & cujuſlibet eorum hæredibus & deputatis, ac *licentiam dedimus affigendi prædictas banneras noſtras & inſignia in quacúmque villâ, oppido, caſtro, inſulâ ſcu terrâ firmâ à ſe noviter inventis.*

Et quod prænominati Johannes & filii ejuſdem, ſeu hæredes & eorum deputati quaſcúmque hujuſmodi villas, caſtra, oppida & inſulas à ſe inventas, quæ ſubjugari, occupari, & poſſideri poſſint, ſubjugare, occupare & poſſidere valeant, tanquam vaſalli noſtri, & gubernatores, locatenentes & deputati eorumdem, dominium, titulum & juriſdictionem eorumdem villarum, caſtrorum, oppidorum, inſularum, ac terræ firmæ ſic inventarum, nobis acquirendo;

Ita tamen at ex omnibus fructubus, proficuis, emolumentis, commodis, lucris & obventionibus, ex hujus modi navigatione provenientibus, præfati Johannes & filii, ac hæredes & eorum deputati teneantur & ſint obligati nobis, pro omni viagio ſuo, totiens quotiens ad portum noſtrum briſtolliæ applicuerint, ad quem omnino applicare teneantur, & ſint aſtricti, deductis omnibus ſumptibus & impenſis neceſſariis per eoſdem factis, *quintam partem totius capitalis*

lucri

lucri ſui facti ſive in mercibus ſive in pecuniis perſolvere ;

Dantes nos & concedentes eiſdem ſuiſque hæredibus & deputatis, ut ab omni ſolutione cuſtumarum omnium & ſingulorum bonorum ac mercium, quas ſecum reportârint ab illis locis ſic noviter inventis, liberi ſint & immunes.

Et inſuper dedimus & conceſſimus eiſdem ac ſuis hæredibus & deputatis, quod terræ omnes firmæ, inſulæ, villæ, oppida, caſtra, & loca quæcúmque, a ſe inventa, quotquot ab eis inveniri contigerit, non poſſint ab aliis quibuſvis noſtris ſubditis frequentari ſeu viſitari, abſque licentia prædictorum Johannis & ejus filiorum ſuorumque deputatorum, ſub pæna amiſſionis tam navium ſive navigiorum, quam bonorum omnium quorumcumque ad ea loca ſic inventa navigare præſumentium ;

Volentes & ſtrictiſſimè mandantes omnibus & ſingulis noſtris ſubditis tam in terra quam in mare conſtitutis, ut præfato Johanni & ejus filiis ac deputatis bonam aſſiſtentiam faciant, & tam in armandis navibus ſeu navigiis, quam in proviſione commeatûs & victualium pro ſua pecunia emendorum, atque aliarum rerum ſibi providendarum, ſuos omnes favores & auxilia impartiantur.

In cujus &c.

Teſte rege weſtmonaſterium quinto die Martii.

Per ipſum Regem.

SECTION V.

This Commiſſion—erecting and eſtabliſhing a board, for the purpoſe of governing the Plantations, is referr'd to in page 62.

De Commiſſione ſpeciali domino archiepiſcopo Cantuarienſi et aliis.

REX &c. reverendiſſimo in Chriſto patri et perquam fideli conſiliario noſtro, Willielmo providentiâ divinâ Cantuarienſi archiepiſcopo, totius anglie primati et metropolitano. A. D. 1636,

Ac perdilecto & perquam fideli conſiliario noſtro Thome domino Coventrie magni ſigilli noſtri Anglie cuſtodi.

Ac etiam reverendiſſimo in Chriſto patri ac perdilecto & perquam fideli conſiliario noſtro Ricardo providentiâ divinâ Eborum Archiepiſcopo, Anglie primati & metropolitano.

Necnon reverendo in Chriſto patri & perdilecto & perquam fideli conſiliario noſtro, Wil-

lielmo epiſcopo London, ſummo theſaurario noſtro Anglie;

Perdilectiſque & perquam fidelibus conſanguineis & conſiliariis noſtris,

Henrico comiti Mancheſter privati ſigilli noſtri cuſtodi,

Thome Comiti Arundell & Surr', comiti mareſcallo Anglie,

Edwardo Comiti Dorcheſtrie, camerario perchariſſime conſortis noſtre regine;

Ac perdilectis & fidelibus conſiliariis noſtris,

Franciſco Domino Cottington, Cancellario & ſubtheſaurario ſcaccarii noſtri ac magiſtro Curie noſtre Wardorum & Liberationum,

Thome Edmonds militi, theſaurario hoſpitii noſtri,

Henrico Vane Militi Controrotulatori Hoſpitii Noſtri,

Johanni Coke militi, ſecretariorum noſtrorum primariorum uni, et

Franciſco Windebanke militi, ſecretariorum noſtrorum primariorum alteri, ſalutem.

Cum

Cùm ſubditorum noſtrorum et nuper patri noſtri domini Jacobi nuper regis anglie, memorie recolende, nonulli, regiâ licentiâ mediante, imperii noſtri territoria, non tantum dilatandi ſtudio, ſed precipuè ex pio & religioſo domini noſtri Jeſu Chriſti evangelium propagandi affectu & deſiderio, copioſas gentis Anglicane Colonias, ſumma induſtria & magnis expenſis in diverſas mundi plagas incultas penitus & incolis vacuas, vel a barbaris nullam divini numinis notitiam habentibus occupatas, deduci fecerunt; nos eorum tranquillitati proſpicere volentes gratioſè & quieti, veſtrumque fide, prudentiâ juſtitia, et provida circumſpectione plenius confidentes, conſtituimus vos predictos,

Archiepiſcopum Cantuarienſem, dominum cuſtodem magni ſigilli noſtri Anglie,

Eboracenſem archiepiſcopum, dominum theſaurarium noſtrum Anglie, dominum cuſtodem privati ſigilli noſtri, comitem mareſcallum Anglie,

Edwardum Comitem Dorcheſtrie, Franciſcum Dominum Cottington, Thomam Edmonds Militem, Henricum Vane Militem, Johannem Coke Militem, et Franciſcum Windebank Militem, & quoſlibet quinque vel plures veſtrum commiſſionarios noſtros & vobis & quibuſlibet quinque vel pluribus veſtrum damus & committimus poteſtatem ad regimen & tutamen dictarum coloniarum deductarum vel que gentis Anglicane inpoſterum fuerint in partibus hujuſmodi deducte, leges, conſtitutiones et ordinationes, ſeu

ad publicum coloniarum illarum ſtatum, ſeu ad privatam ſingulorum utilitatem pertinentes, eorumque terras, bona, debita & ſucceſſionem in eiſdem partibus concernentes, ac qualiter invicem & erga principes exteros eorumque populum; nos etiam & ſubditos noſtros tam in partibus exteris quibus cunque; quam in mari in partes illas vel retrò navigando, ſe gerant, vel que ad ſuſtentationem cleri, regimen vel curam animarum populi in partibus illis degentis, exercentis, congruas portiones in decimis, oblationibus, aliiſque proventibus deſignando ſpectant, juxta ſanas diſcretiones veſtras in politicis & civilibus, & habito conſilio duorum vel trium epiſcoporum, quos ad vos convocandos duxeritis neceſſarios in eccleſiaſticis, & clero portiones deſignandi, condendi, faciendi, & edendi, ac in legum, conſtitutionum & ordinationum illarum violatores, penas & mulctas, impoſitionem, incarcerationem & aliam quamlibet coertionem, etiam ſi oporteat & delicti qualitas exigerit per membri vel vite privationem inflingendas providere; cum poteſtate etiam (noſtro adhibito aſſenſu) gubernatores & prefectos coloniarum illarum a locis ſuis amovere ex cauſis que vobis legitime viſe fuerint alioſque eorum loco conſtituere, ac de eis rationem prefecture & regimin's ſuorum exigere, & quos culpabiles inveneritis vel a loci privatione, mulcte impoſitione de bonis eorum in partibus illis levando, vel abdicatione à provinciis illis quibus prefuerint, vel aliter ſecundum quantitatem delicti caſtigare, judiceſque & magiſtratus politicos & civiles ad cauſas civiles, & cum poteſtate & ſub formâ, quâ vobis quinque vel pluribus veſtrum videbitur expedire, ac

judices,

judices, magiſtratus & dignitates ad cauſas eccleſiaſticas, & ſub poteſtate & formâ que vobis quinque vel pluribus veſtrum epiſcopis ſuffraganeais (archiepiſcopo Cantuarienſi protempore exiſtenti conſulto,) videbitur expedire, conſtituere & ordinare; curiaſque, pretoria, & tribunalia tam eccleſiaſtica quam civilia, judiciorum formas & procedendi modos in eiſdem, & ab eis appellandi in cauſis & negotiis tam criminalibus quam civilibus, perſonalibus, realibus & mixtis pretoriis, ſeu de equo & bono, conſtituendi, & que crimina, delicta vel exceſſus, contractus vel injurias ad forum eccleſiaſticum, et que ad Forum civile & pretorium ſpectare debeant, determinare;

Proviſo tamen, quod leges, ordinationes, & conſtitutiones hujuſmodi executioni non mandentur, quo uſque aſſenſus noſter eiſdem adhibeatur regius in ſcriptis ſub ſignetto noſtro ſignatis, ad minus & hujuſmodi aſſenſu adhibito, eiſque publice promulgatis in provinciis in quibus ſint exequende, leges, ordinationes, & conſtitutiones illas plenarie juris firmitatem adipiſci, & ab omnibus quorum intereſſe poterit inviolabiliter obſervari, volumus & mandamus; liceat tamen vobis quinque vel pluribus veſtrum, ut predictum eſt, leges, conſtitutiones & ordinationes ſic edendas, licet promulgate fuerint, aſſenſu noſtro regio, mutare, revocare & abrogare, aliaſque novas in forma predicta de tempore in tempus facere & edere, ut predictum eſt, noviſque emergentibus malis vel periculis nova apponere remedia, prout decet, toties quoties expediens vobis videbitur et neceſſarium;

Sciatis ulterius, quod conſtituimus vos & quoſlibet quinque & plures veſtrum, prefatos Willielmum archiepiſcopum Cantuarienſem, Thomam dominum Coventrie——, magni ſigilli noſtri Anglie cuſtodem. Ricardum Eboracenſem archiepiſcopum, dominum theſaurarium, Henricum comitem Mancheſter, Thomam comitem Arundelle & Surrie, Edward comitem Dorcheſtrie, Franciſcum dominum Cottington, Thomam Edmonds militem, Henricum Vane militem, Johannem Cooke militem, et Franciſcum Windebanke militem, commiſſionarios noſtros, ad audiendum & terminandum, juxta ſanas diſcretiones veſtras, omnimodas querelas ſive contra colonias ipſas ſeu eorum prefectos vel gubernatores ad inſtantiam partis gravate, vel ad delationem de injuriis hinc vel inde inter ipſas vel ipſorum membra aliquod illatis moventias, partiſque coram vobis evocare, ac partibus vel eorum procuratoribus hinc et inde auditis, plenum juſtitie complementum exhibendum; dantes vobis & quibuſlibet quinque vel pluribus veſtrum, quod ſi quas coloniarum predictarum vel aliquem prefectorum eorum ditiones alienas injuſte poſſidendo, vel uſurpando vel invicem ſeipſos gravando, ſeu nobis rebelles a fide noſtra ſubtrahendo, aut mandatis noſtris non obtemperantes inveneritis, nobis prius in hac parte conſultis, colonias hujuſmodi & prefectos eorum ob cauſas predictas, vel aliis juſtis de cauſis, vel in Angliam redire, aut ad alia loca deſignanda divertere mandare, prout ſecundum ſanas diſcretiones veſtras equum; juſtum vel neceſſarium videbitur;

Damus

Damus insuper vobis & quibuslibet quinque vel pluribus vestrum, potestatem & mandatum speciale, ad omnia, chartas literas patentes & rescripta regia, de regionibus, provinciis, insulis vel terris in partibus exteris colonias deducentibus concessa, vobis duci facienda, iisque inspectis, si que eorum surreptivé vel indebitè obtenta, vel per eadem. privilegia, libertates vel prerogativa nobis & corone nostre vel principibus exteris nociva & prejudicialia, indulta vel concessa fuisse, vobis quinque vel pluribus vestrum innotescat, ea secundum legem & consuetudinem regni nostri Anglie, revocari, jubere; ceteraque agendi, quæ ad regimen salutare & tutamen coloniarum predictarum & subditorum nostrorum in eisdem residentium fuerint necessaria; et ideo vobis mandamus, quod circa premissa, ad dies & loca que ad hoc provideritis, diligentes sitis intendentes prout decet, precipiendo etiam & firmiter injungendo, damus in mandatis omnibus & singulis prefectis provinciarum, in quas colonie predicte deducte sint vel fuerint, & singulis de coloniis ipsis & aliis quorum in hac parte interest, quod vobis in premissis sint intendentes, mandatisque vestris in eisdem obtemperantes & obedientes, quoties et prout ex parte vestra fuerint requisiti, sub periculo incumbenti,

In cujus rei &c.

Teste rege apud Westmonasterium decimo die Aprilis.

Per ipsum Regem.

F I N I S.

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